

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3548
OFFERED BY MR. MCCAUL OF TEXAS**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Border Security for America Act of 2017”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title.

TITLE I—BORDER SECURITY

Sec. 101. Definitions.

Subtitle A—Infrastructure and Equipment

Sec. 111. Strengthening the requirements for barriers along the southern border.

Sec. 112. Air and Marine Operations flight hours.

Sec. 113. Capability deployment to specific sectors and transit zone.

Sec. 114. U.S. Border Patrol physical infrastructure improvements.

Sec. 115. U.S. Border Patrol activities.

Sec. 116. Border security technology program management.

Sec. 117. National Guard support to secure the southern border and reimbursement of States for deployment of the National Guard at the southern border.

Sec. 118. Operation Phalanx.

Sec. 119. Merida Initiative.

Sec. 120. Prohibitions on actions that impede border security on certain Federal land.

Sec. 121. Landowner and rancher security enhancement.

Sec. 122. Eradication of carrizo cane and salt cedar.

Sec. 123. Southern border threat analysis.

Sec. 124. Amendments to U.S. Customs and Border Protection.

Subtitle B—Personnel

Sec. 131. Additional U.S. Customs and Border Protection agents and officers.
Sec. 132. U.S. Customs and Border Protection retention incentives.
Sec. 133. Anti-Border Corruption Reauthorization Act.

Subtitle C—Grants

Sec. 141. Operation Stonegarden.

Subtitle D—Authorization of Appropriations

Sec. 151. Authorization of appropriations.

TITLE II—EMERGENCY PORT OF ENTRY PERSONNEL AND
INFRASTRUCTURE FUNDING

Sec. 201. Ports of entry infrastructure.
Sec. 202. Secure communications.
Sec. 203. Border security deployment program.
Sec. 204. Pilot and upgrade of license plate readers at ports of entry.
Sec. 205. Biometric exit data system.
Sec. 206. Sense of Congress on cooperation between agencies.
Sec. 207. Authorization of appropriations.
Sec. 208. Definition.

1 **TITLE I—BORDER SECURITY**

2 **SEC. 101. DEFINITIONS.**

3 In this title:

4 (1) ADVANCED UNATTENDED SURVEILLANCE
5 SENSORS.—The term “advanced unattended surveil-
6 lance sensors” means sensors that utilize an onboard
7 computer to analyze detections in an effort to dis-
8 cern between vehicles, humans, and animals, and ul-
9 timately filter false positives prior to transmission.

10 (2) APPROPRIATE CONGRESSIONAL COM-
11 MITTEE.—The term “appropriate congressional com-
12 mittee” has the meaning given the term in section
13 2(2) of the Homeland Security Act of 2002 (6
14 U.S.C. 101(2)).

1 (3) COMMISSIONER.—The term “Commis-
2 sioner” means the Commissioner of U.S. Customs
3 and Border Protection.

4 (4) HIGH TRAFFIC AREAS.—The term “high
5 traffic areas” has the meaning given such term in
6 section 102(e)(1) of the Illegal Immigration Reform
7 and Immigrant Responsibility Act of 1996, as
8 amended by section 111 of this Act.

9 (5) OPERATIONAL CONTROL.—The term “oper-
10 ational control” has the meaning given such term in
11 section 2(b) of the Secure Fence Act of 2006 (8
12 U.S.C. 1701 note; Public Law 109–367).

13 (5) SECRETARY.—The term “Secretary” means
14 the Secretary of Homeland Security.

15 (6) SITUATIONAL AWARENESS.—The term “sit-
16 uational awareness” has the meaning given such
17 term in section 1092(a)(7) of the National Defense
18 Authorization Act for Fiscal Year 2017 (Public Law
19 114–328; 6 U.S.C. 223(a)(7)).

20 (7) TRANSIT ZONE.—The term “transit zone”
21 has the meaning given such term in section
22 1092(a)(8) of the National Defense Authorization
23 Act for Fiscal Year 2017 (Public Law 114–328; 6
24 U.S.C. 223(a)(7)).

1 **Subtitle A—Infrastructure and**
2 **Equipment**

3 **SEC. 111. STRENGTHENING THE REQUIREMENTS FOR BAR-**
4 **RIERS ALONG THE SOUTHERN BORDER.**

5 Section 102 of the Illegal Immigration Reform and
6 Immigrant Responsibility Act of 1996 (Division C of Pub-
7 lic Law 104–208; 8 U.S.C. 1103 note) is amended—

8 (1) by amending subsection (a) to read as fol-
9 lows:

10 “(a) IN GENERAL.—The Secretary of Homeland Se-
11 curity shall take such actions as may be necessary (includ-
12 ing the removal of obstacles to detection of illegal en-
13 trants) to construct, install, deploy, operate, and maintain
14 tactical infrastructure and technology in the vicinity of the
15 United States border to deter, impede, and detect illegal
16 activity in high traffic areas.”;

17 (2) in subsection (b)—

18 (A) in the subsection heading, by striking
19 “FENCING” and inserting “PHYSICAL BAR-
20 RIERS”;

21 (B) in paragraph (1)—

22 (i) in subparagraph (A), by inserting
23 “situational awareness and” before “oper-
24 ational control”; and

1 (ii) by amending subparagraph (B) to
2 read as follows:

3 “(B) TACTICAL INFRASTRUCTURE.—

4 “(i) IN GENERAL.—Not later than
5 January 20, 2021, the Secretary of Home-
6 land Security, in carrying out subsection
7 (a), shall deploy along the United States
8 border the most practical and effective tac-
9 tical infrastructure available for achieving
10 situational awareness and operational con-
11 trol of the border.

12 “(ii) TACTICAL INFRASTRUCTURE DE-
13 FINED.—In this subparagraph, the term
14 ‘tactical infrastructure’ includes—

15 “(I) boat ramps, access gates,
16 forward operating bases, checkpoints,
17 lighting, and roads; and

18 “(II) physical barriers (including
19 fencing, border wall system, and levee
20 walls).”; and

21 (iii) in subparagraph (C)—

22 (I) by amending clause (i) to
23 read as follows:

24 “(i) IN GENERAL.—In carrying out
25 this section, the Secretary of Homeland

1 Security shall, before deploying tactical in-
2 frastructure in a specific area or region,
3 consult with the Secretary of the Interior,
4 the Secretary of Agriculture, the Governors
5 for each State on the southern land border
6 and northern land border, other States,
7 local governments, Indian tribes, represent-
8 atives of the U.S. Border Patrol and U.S.
9 Customs and Border Protection, relevant
10 Federal, State, local, and tribal agencies
11 that have jurisdiction on the southern land
12 border or in the maritime environment
13 along the southern border, and private
14 property owners in the United States to
15 minimize the impact on the environment,
16 culture, commerce, quality of life for the
17 communities and residents located near the
18 sites at which physical barriers, tactical in-
19 frastructure, and technology are to be con-
20 structed.”;

21 (II) by redesignating clause (ii)
22 as clause (iii); and
23 (III) by inserting after clause (i),
24 as amended, the following new clause:

1 “(ii) NOTIFICATION.—Not later than
2 60 days after the consultation required
3 under clause (i), the Secretary of Home-
4 land Security shall notify the Committee
5 on Homeland Security of the House of
6 Representatives and the Committee on
7 Homeland Security and Governmental Af-
8 fairs of the Senate of the type of tactical
9 infrastructure and technology the Sec-
10 retary has determined is most practical
11 and effective to achieve operational control
12 and situational awareness in a specific area
13 and the other alternatives the Secretary
14 considered before making such a deter-
15 mination”;

16 (C) in paragraph (2)—

17 (i) by striking “Attorney General”
18 and inserting “Secretary of Homeland Se-
19 curity”; and

20 (ii) by striking “construction of
21 fences” and inserting “the construction of
22 physical barriers”; and

23 (D) by amending paragraph (3) to read as
24 follows:

1 “(3) AGENT SAFETY.—In carrying out this sec-
2 tion, the Secretary of Homeland Security, when con-
3 structing tactical infrastructure, shall incorporate
4 such safety features into the design of such tactical
5 infrastructure that the Secretary determines, in the
6 Secretary’s sole discretion, are necessary to maxi-
7 mize the safety and effectiveness of officers or
8 agents of the Department of Homeland Security or
9 of any other Federal agency.”;

10 (3) in subsection (c), by amending paragraph
11 (1) to read as follows:

12 “(1) IN GENERAL.—Notwithstanding any other
13 provision of law, the Secretary of Homeland Security
14 is authorized to waive all legal requirements the Sec-
15 retary, in the Secretary’s sole discretion, determines
16 necessary to ensure the expeditious construction, in-
17 stallation, operation, and maintenance of the tactical
18 infrastructure and technology under this section.
19 Any such decision by the Secretary shall be effective
20 upon publication in the Federal Register.”; and

21 (4) by adding after subsection (c) the following
22 new subsections:

23 “(d) CONSTRUCTION, INSTALLATION, AND MAINTE-
24 NANCE OF TECHNOLOGY.—

1 “(1) IN GENERAL.—Not later than January 20,
2 2021, the Secretary of Homeland Security, in car-
3 rying out subsection (a), shall deploy along the
4 United States border the most practical and effective
5 technology available for achieving situational aware-
6 ness and operational control of the border.

7 “(2) TECHNOLOGY DEFINED.—In this sub-
8 section, the term ‘technology’ includes border sur-
9 veillance and detection technology, including the fol-
10 lowing:

11 “(A) Tower-based surveillance technology.

12 “(B) Deployable, lighter-than-air ground
13 surveillance equipment.

14 “(C) Vehicle and Dismount Exploitation
15 Radars (VADER).

16 “(D) 3-dimensional, seismic acoustic detec-
17 tion and ranging border tunneling detection
18 technology.

19 “(E) Advanced unattended surveillance
20 sensors.

21 “(F) Mobile vehicle-mounted and man-
22 portable surveillance capabilities.

23 “(G) Unmanned aerial vehicles.

24 “(e) DEFINITIONS.—In this section:

1 “(1) HIGH TRAFFIC AREAS.—The term ‘high
2 traffic areas’ means areas in the vicinity of the
3 United States border that—

4 “(A) are within the responsibility of U.S.
5 Customs and Border Protection; and

6 “(B) have significant unlawful cross-border
7 activity.

8 “(2) OPERATIONAL CONTROL.—The term ‘oper-
9 ational control’ has the meaning given such term in
10 section 2(b) of the Secure Fence Act of 2006 (8
11 U.S.C. 1701 note; Public Law 109–367).

12 “(3) SITUATIONAL AWARENESS DEFINED.—The
13 term ‘situational awareness’ has the meaning given
14 such term in section 1092(a)(7) of the National De-
15 fense Authorization Act for Fiscal Year 2017 (Pub-
16 lic Law 114–328).”.

17 **SEC. 112. AIR AND MARINE OPERATIONS FLIGHT HOURS.**

18 (a) INCREASED FLIGHT HOURS.—The Secretary
19 shall ensure that not fewer than 95,000 annual flight
20 hours are carried out by Air and Marine Operations of
21 U.S. Customs and Border Protection.

22 (b) UNMANNED AERIAL SYSTEM.—The Secretary
23 shall ensure that Air and Marine Operations operate un-
24 manned aerial systems on the southern border of the

1 United States for not less than 24 hours per day for five
2 days per week.

3 (c) CONTRACT AIR SUPPORT AUTHORIZATION.—The
4 Commissioner shall contract for the unfulfilled identified
5 air support mission critical hours, as identified by the
6 Chief of the U.S. Border Patrol.

7 (d) PRIMARY MISSION.—The Commissioner shall en-
8 sure that—

9 (1) the primary missions for Air and Marine
10 Operations are to directly support U.S. Border Pa-
11 trol activities along the southern border of the
12 United States and Joint Interagency Task Force
13 South operations in the transit zone; and

14 (2) the Executive Assistant Commissioner of
15 Air and Marine Operations assigns the greatest pri-
16 ority to support missions established by the Commis-
17 sioner to carry out the requirements under this Act.

18 (e) HIGH-DEMAND FLIGHT HOUR REQUIREMENTS.—
19 In accordance with subsection (d), the Commissioner shall
20 ensure that U.S. Border Patrol Sector Chiefs—

21 (1) identify critical flight hour requirements;
22 and

23 (2) direct Air and Marine Operations to sup-
24 port requests from Sector Chiefs as their primary
25 mission.

1 (f) SMALL UNMANNED AERIAL VEHICLES.—

2 (1) IN GENERAL.—The Chief of the U.S. Bor-
3 der Patrol shall be the operational lead for U.S.
4 Customs and Border Protection’s use of small un-
5 manned aerial vehicles for the purpose of meeting
6 the U.S. Border Patrol’s unmet flight hour oper-
7 ational requirements and to achieve situational
8 awareness and operational control.

9 (2) COORDINATION.—In carrying out para-
10 graph (1), the Chief of the U.S. Border Patrol shall
11 coordinate with the Executive Assistant Commis-
12 sioner for Air and Marine Operations of U.S. Cus-
13 toms and Border Protection to ensure the safety of
14 other aircraft flying in the vicinity of small un-
15 manned aerial vehicles operated by the U.S. Border
16 Patrol.

17 (3) DEFINITION.—In this subsection, the term
18 “small unmanned aerial vehicle” means any un-
19 manned aerial vehicle operated by U.S. Customs and
20 Border Protection weighing less than 55 pounds.

21 (4) CONFORMING AMENDMENT.—Paragraph (3)
22 of section 411(e) of the Homeland Security Act of
23 2002 (6 U.S.C. 211(e)) is amended—

24 (A) in subparagraph (B), by striking
25 “and” after the semicolon at the end;

1 (B) by redesignating subparagraph (C) as
2 subparagraph (D); and

3 (C) by inserting after subparagraph (B)
4 the following new subparagraph:

5 “(C) carry out the small unmanned aerial
6 vehicle requirements pursuant to subsection (f)
7 of section 112 of the Border Security for Amer-
8 ica Act of 2017; and”.

9 **SEC. 113. CAPABILITY DEPLOYMENT TO SPECIFIC SECTORS**
10 **AND TRANSIT ZONE.**

11 (a) IN GENERAL.—Not later than January 20, 2021,
12 the Secretary, in implementing section 102 of the Illegal
13 Immigration Reform and Immigrant Responsibility Act of
14 1996 (as amended by section 111 of this Act), and acting
15 through the appropriate component of the Department of
16 Homeland Security, shall deploy to each sector or region
17 of the southern border and the northern border, in a
18 prioritized manner to achieve situational awareness and
19 operational control of such borders, the following addi-
20 tional capabilities:

21 (1) SAN DIEGO SECTOR.—For the San Diego
22 sector, the following:

23 (A) Tower-based surveillance technology.

24 (B) Subterranean surveillance and detec-
25 tion technologies.

1 (C) To increase coastal maritime domain
2 awareness, the following:

3 (i) Deployable, lighter-than-air surface
4 surveillance equipment.

5 (ii) Unmanned aerial vehicles with
6 maritime surveillance capability.

7 (iii) Maritime patrol aircraft.

8 (iv) Coastal radar surveillance sys-
9 tems.

10 (v) Maritime signals intelligence capa-
11 bilities.

12 (D) Ultralight aircraft detection capabili-
13 ties.

14 (E) Advanced unattended surveillance sen-
15 sors.

16 (F) A rapid reaction capability supported
17 by aviation assets.

18 (G) Mobile vehicle-mounted and man-port-
19 able surveillance capabilities.

20 (H) Man-portable unmanned aerial vehi-
21 cles.

22 (I) Improved agent communications capa-
23 bilities.

24 (2) EL CENTRO SECTOR.—For the El Centro
25 sector, the following:

1 (A) Tower-based surveillance technology.

2 (B) Deployable, lighter-than-air ground
3 surveillance equipment.

4 (C) Man-portable unmanned aerial vehi-
5 cles.

6 (D) Ultralight aircraft detection capabili-
7 ties.

8 (E) Advanced unattended surveillance sen-
9 sors.

10 (F) A rapid reaction capability supported
11 by aviation assets.

12 (G) Man-portable unmanned aerial vehi-
13 cles.

14 (H) Improved agent communications capa-
15 bilities.

16 (3) YUMA SECTOR.—For the Yuma sector, the
17 following:

18 (A) Tower-based surveillance technology.

19 (B) Deployable, lighter-than-air ground
20 surveillance equipment.

21 (C) Ultralight aircraft detection capabili-
22 ties.

23 (D) Advanced unattended surveillance sen-
24 sors.

1 (E) A rapid reaction capability supported
2 by aviation assets.

3 (F) Mobile vehicle-mounted and man-port-
4 able surveillance systems.

5 (G) Man-portable unmanned aerial vehi-
6 cles.

7 (H) Improved agent communications capa-
8 bilities.

9 (4) TUCSON SECTOR.—For the Tucson sector,
10 the following:

11 (A) Tower-based surveillance technology.

12 (B) Increased flight hours for aerial detec-
13 tion, interdiction, and monitoring operations ca-
14 pability.

15 (C) Deployable, lighter-than-air ground
16 surveillance equipment.

17 (D) Ultralight aircraft detection capabili-
18 ties.

19 (E) Advanced unattended surveillance sen-
20 sors.

21 (F) A rapid reaction capability supported
22 by aviation assets.

23 (G) Man-portable unmanned aerial vehi-
24 cles.

1 (H) Improved agent communications capa-
2 bilities.

3 (5) EL PASO SECTOR.—For the El Paso sector,
4 the following:

5 (A) Tower-based surveillance technology.

6 (B) Deployable, lighter-than-air ground
7 surveillance equipment.

8 (C) Ultralight aircraft detection capabili-
9 ties.

10 (D) Advanced unattended surveillance sen-
11 sors.

12 (E) Mobile vehicle-mounted and man-port-
13 able surveillance systems.

14 (F) A rapid reaction capability supported
15 by aviation assets.

16 (G) Mobile vehicle-mounted and man-port-
17 able surveillance capabilities.

18 (H) Man-portable unmanned aerial vehi-
19 cles.

20 (I) Improved agent communications capa-
21 bilities.

22 (6) BIG BEND SECTOR.—For the Big Bend sec-
23 tor, the following:

24 (A) Tower-based surveillance technology.

1 (B) Deployable, lighter-than-air ground
2 surveillance equipment.

3 (C) Improved agent communications capa-
4 bilities.

5 (D) Ultralight aircraft detection capabili-
6 ties.

7 (E) Advanced unattended surveillance sen-
8 sors.

9 (F) A rapid reaction capability supported
10 by aviation assets.

11 (G) Mobile vehicle-mounted and man-port-
12 able surveillance capabilities.

13 (H) Man-portable unmanned aerial vehi-
14 cles.

15 (I) Improved agent communications capa-
16 bilities.

17 (7) DEL RIO SECTOR.—For the Del Rio sector,
18 the following:

19 (A) Tower-based surveillance technology.

20 (B) Increased monitoring for cross-river
21 dams, culverts, and footpaths.

22 (C) Improved agent communications capa-
23 bilities.

24 (D) Improved maritime capabilities in the
25 Amistad National Recreation Area.

1 (E) Advanced unattended surveillance sen-
2 sors.

3 (F) A rapid reaction capability supported
4 by aviation assets.

5 (G) Mobile vehicle-mounted and man-port-
6 able surveillance capabilities.

7 (H) Man-portable unmanned aerial vehi-
8 cles.

9 (I) Improved agent communications capa-
10 bilities.

11 (8) LAREDO SECTOR.—For the Laredo sector,
12 the following:

13 (A) Tower-based surveillance technology.

14 (B) Maritime detection resources for the
15 Falcon Lake region.

16 (C) Increased flight hours for aerial detec-
17 tion, interdiction, and monitoring operations ca-
18 pability.

19 (D) Increased monitoring for cross-river
20 dams, culverts, and footpaths.

21 (E) Ultralight aircraft detection capability.

22 (F) Advanced unattended surveillance sen-
23 sors.

24 (G) A rapid reaction capability supported
25 by aviation assets.

1 (H) Man-portable unmanned aerial vehi-
2 cles.

3 (I) Improved agent communications capa-
4 bilities.

5 (9) RIO GRANDE VALLEY SECTOR.—For the Rio
6 Grande Valley sector, the following:

7 (A) Tower-based surveillance technology.

8 (B) Deployable, lighter-than-air ground
9 surveillance equipment.

10 (C) Increased flight hours for aerial detec-
11 tion, interdiction, and monitoring operations ca-
12 pability.

13 (D) Ultralight aircraft detection capability.

14 (E) Advanced unattended surveillance sen-
15 sors.

16 (F) Increased monitoring for cross-river
17 dams, culverts, footpaths.

18 (G) A rapid reaction capability supported
19 by aviation assets.

20 (H) Increased maritime interdiction capa-
21 bilities.

22 (I) Mobile vehicle-mounted and man-port-
23 able surveillance capabilities.

24 (J) Man-portable unmanned aerial vehi-
25 cles.

1 (K) Improved agent communications capa-
2 bilities.

3 (10) BLAINE SECTOR.—For the Blaine sector,
4 the following:

5 (A) Increased flight hours for aerial detec-
6 tion, interdiction, and monitoring operations ca-
7 pability.

8 (B) Coastal radar surveillance systems.

9 (C) Increased maritime interdiction capa-
10 bilities.

11 (D) Mobile vehicle-mounted and man-port-
12 able surveillance capabilities.

13 (E) Advanced unattended surveillance sen-
14 sors.

15 (F) Ultralight aircraft detection capabili-
16 ties.

17 (G) Man-portable unmanned aerial vehi-
18 cles.

19 (H) Improved agent communications capa-
20 bilities.

21 (11) SPOKANE SECTOR.—For the Spokane sec-
22 tor, the following:

23 (A) Increased flight hours for aerial detec-
24 tion, interdiction, and monitoring operations ca-
25 pability.

1 (B) Increased maritime interdiction capa-
2 bilities.

3 (C) Mobile vehicle-mounted and man-port-
4 able surveillance capabilities.

5 (D) Advanced unattended surveillance sen-
6 sors.

7 (E) Ultralight aircraft detection capabili-
8 ties.

9 (F) Completion of six miles of the Bog
10 Creek road.

11 (G) Man-portable unmanned aerial vehi-
12 cles.

13 (H) Improved agent communications sys-
14 tems.

15 (12) HAVRE SECTOR.—For the Havre sector,
16 the following:

17 (A) Increased flight hours for aerial detec-
18 tion, interdiction, and monitoring operations ca-
19 pability.

20 (B) Mobile vehicle-mounted and man-port-
21 able surveillance capabilities.

22 (C) Advanced unattended surveillance sen-
23 sors.

24 (D) Ultralight aircraft detection capabili-
25 ties.

1 (E) Man-portable unmanned aerial vehi-
2 cles.

3 (F) Improved agent communications sys-
4 tems.

5 (13) GRAND FORKS SECTOR.—For the Grand
6 Forks sector, the following:

7 (A) Increased flight hours for aerial detec-
8 tion, interdiction, and monitoring operations ca-
9 pability.

10 (B) Mobile vehicle-mounted and man-port-
11 able surveillance capabilities.

12 (C) Advanced unattended surveillance sen-
13 sors.

14 (D) Ultralight aircraft detection capabili-
15 ties.

16 (E) Man-portable unmanned aerial vehi-
17 cles.

18 (F) Improved agent communications sys-
19 tems.

20 (14) DETROIT SECTOR.—For the Detroit sec-
21 tor, the following:

22 (A) Increased flight hours for aerial detec-
23 tion, interdiction, and monitoring operations ca-
24 pability.

25 (B) Coastal radar surveillance systems.

1 (C) Increased maritime interdiction capa-
2 bilities.

3 (D) Mobile vehicle-mounted and man-port-
4 able surveillance capabilities.

5 (E) Advanced unattended surveillance sen-
6 sors.

7 (F) Ultralight aircraft detection capabili-
8 ties.

9 (G) Man-portable unmanned aerial vehi-
10 cles.

11 (H) Improved agent communications sys-
12 tems.

13 (15) BUFFALO SECTOR.—For the Buffalo sec-
14 tor, the following:

15 (A) Increased flight hours for aerial detec-
16 tion, interdiction, and monitoring operations ca-
17 pability.

18 (B) Coastal radar surveillance systems.

19 (C) Increased maritime interdiction capa-
20 bilities.

21 (D) Mobile vehicle-mounted and man-port-
22 able surveillance capabilities.

23 (E) Advanced unattended surveillance sen-
24 sors.

1 (F) Ultralight aircraft detection capabili-
2 ties.

3 (G) Man-portable unmanned aerial vehi-
4 cles.

5 (H) Improved agent communications sys-
6 tems.

7 (16) SWANTON SECTOR.—For the Swanton sec-
8 tor, the following:

9 (A) Increased flight hours for aerial detec-
10 tion, interdiction, and monitoring operations ca-
11 pability.

12 (B) Mobile vehicle-mounted and man-port-
13 able surveillance capabilities.

14 (C) Advanced unattended surveillance sen-
15 sors.

16 (D) Ultralight aircraft detection capabili-
17 ties.

18 (E) Man-portable unmanned aerial vehi-
19 cles.

20 (F) Improved agent communications sys-
21 tems.

22 (17) HOULTON SECTOR.—For the Houlton sec-
23 tor, the following:

1 (A) Increased flight hours for aerial detec-
2 tion, interdiction, and monitoring operations ca-
3 pability.

4 (B) Mobile vehicle-mounted and man-port-
5 able surveillance capabilities.

6 (C) Advanced unattended surveillance sen-
7 sors.

8 (D) Ultralight aircraft detection capabili-
9 ties.

10 (E) Man-portable unmanned aerial vehi-
11 cles.

12 (F) Improved agent communications sys-
13 tems.

14 (18) TRANSIT ZONE.—For the transit zone, the
15 following:

16 (A) Not later than two years after the date
17 of the enactment of this Act, an increase in the
18 number of overall cutter, boat, and aircraft
19 hours spent conducting interdiction operations
20 over the average number of such hours during
21 the preceding three fiscal years.

22 (B) Increased maritime signals intelligence
23 capabilities.

24 (C) To increase maritime domain aware-
25 ness, the following:

1 (i) Unmanned aerial vehicles with
2 maritime surveillance capability.

3 (ii) Increased maritime aviation patrol
4 hours.

5 (D) Increased operational hours for mari-
6 time security components dedicated to joint
7 counter-smuggling and interdiction efforts with
8 other Federal agencies, including the
9 Deployable Specialized Forces of the Coast
10 Guard.

11 (E) Coastal radar surveillance systems
12 with long range day and night cameras capable
13 of providing full maritime domain awareness of
14 the United States territorial waters surrounding
15 Puerto Rico, Mona Island, Desecheo Island,
16 Vieques Island, Culebra Island, Saint Thomas,
17 Saint John, and Saint Croix.

18 (b) TACTICAL FLEXIBILITY.—

19 (1) SOUTHERN AND NORTHERN LAND BOR-
20 DERS.—

21 (A) IN GENERAL.—Beginning on January
22 20, 2020, or after the Secretary has deployed at
23 least 25 percent of the capabilities required in
24 each sector specified in subsection (a), which-
25 ever comes later, the Secretary may deviate

1 from such capability deployments if the Sec-
2 retary determines that such deviation is re-
3 quired to achieve situational awareness or oper-
4 ational control.

5 (B) NOTIFICATION.—If the Secretary exer-
6 cises the authority described in subparagraph
7 (A), the Secretary shall, not later than 90 days
8 after such exercise, notify the Committee on
9 Homeland Security and Governmental Affairs
10 of the Senate and the Committee on Homeland
11 Security of the House of Representatives re-
12 garding the deviation under such subparagraph
13 that is the subject of such exercise. If the Sec-
14 retary makes any changes to such deviation, the
15 Secretary shall, not later than 90 days after
16 any such change, notify such committees re-
17 garding such change.

18 (2) TRANSIT ZONE.—

19 (A) NOTIFICATION.—The Secretary shall
20 notify the Committee on Homeland Security
21 and Governmental Affairs of the Senate, the
22 Committee on Commerce, Science, and Trans-
23 portation of the Senate, the Committee on
24 Homeland Security of the House of Representa-
25 tives, and the Committee on Transportation

1 and Infrastructure of the House of Representa-
2 tives regarding the capability deployments for
3 the transit zone specified in paragraph (18) of
4 subsection (a), including information relating
5 to—

6 (i) the number and types of assets
7 and personnel deployed; and

8 (ii) the impact such deployments have
9 on the capability of the Coast Guard to
10 conduct its mission in the transit zone re-
11 ferred to in paragraph (18) of subsection
12 (a).

13 (B) ALTERATION.—The Secretary may
14 alter the capability deployments referred to in
15 this section if the Secretary—

16 (i) determines, after consultation with
17 the committees referred to in subpara-
18 graph (A), that such alteration is nec-
19 essary; and

20 (ii) not later than 30 days after mak-
21 ing a determination under clause (i), noti-
22 fies the committees referred to in such
23 subparagraph regarding such alteration,
24 including information relating to—

1 (I) the number and types of as-
2 sets and personnel deployed pursuant
3 to such alteration; and

4 (II) the impact such alteration
5 has on the capability of the Coast
6 Guard to conduct its mission in the
7 transit zone referred to in paragraph
8 (18) of subsection (a).

9 (c) EXIGENT CIRCUMSTANCES.—

10 (1) IN GENERAL.—Notwithstanding subsection
11 (b), the Secretary may deploy the capabilities re-
12 ferred to in subsection (a) in a manner that is incon-
13 sistent with the requirements specified in such sub-
14 section if, after the Secretary has deployed at least
15 25 percent of such capabilities, the Secretary deter-
16 mines that exigent circumstances demand such an
17 inconsistent deployment or that such an inconsistent
18 deployment is vital to the national security interests
19 of the United States.

20 (2) NOTIFICATION.—The Secretary shall notify
21 the Committee on Homeland Security of the House
22 of Representative and the Committee on Homeland
23 Security and Governmental Affairs of the Senate not
24 later than 30 days after making a determination

1 under paragraph (1). Such notification shall include
2 a detailed justification regarding such determination.

3 **SEC. 114. U.S. BORDER PATROL PHYSICAL INFRASTRUC-**
4 **TURE IMPROVEMENTS.**

5 The Secretary shall upgrade existing physical infra-
6 structure of the Department of Homeland Security, and
7 construct and acquire additional physical infrastructure,
8 including—

- 9 (1) U.S. Border Patrol stations;
10 (2) U.S. Border Patrol checkpoints;
11 (3) mobile command centers; and
12 (4) other necessary facilities, structures, and
13 properties.

14 **SEC. 115. U.S. BORDER PATROL ACTIVITIES.**

15 The Chief of the U.S. Border Patrol shall prioritize
16 the deployment of U.S. Border Patrol agents to as close
17 to the physical land border as possible, consistent with
18 border security enforcement priorities and accessibility to
19 such areas.

20 **SEC. 116. BORDER SECURITY TECHNOLOGY PROGRAM**
21 **MANAGEMENT.**

22 (a) IN GENERAL.—Subtitle C of title IV of the
23 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.)
24 is amended by adding at the end the following new section:

1 **“SEC. 434. BORDER SECURITY TECHNOLOGY PROGRAM**
2 **MANAGEMENT.**

3 “(a) MAJOR ACQUISITION PROGRAM DEFINED.—In
4 this section, the term ‘major acquisition program’ means
5 an acquisition program of the Department that is esti-
6 mated by the Secretary to require an eventual total ex-
7 penditure of at least \$300,000,000 (based on fiscal year
8 2017 constant dollars) over its life cycle cost.

9 “(b) PLANNING DOCUMENTATION.—For each border
10 security technology acquisition program of the Depart-
11 ment that is determined to be a major acquisition pro-
12 gram, the Secretary shall—

13 “(1) ensure that each such program has a writ-
14 ten acquisition program baseline approved by the
15 relevant acquisition decision authority;

16 “(2) document that each such program is meet-
17 ing cost, schedule, and performance thresholds as
18 specified in such baseline, in compliance with rel-
19 evant departmental acquisition policies and the Fed-
20 eral Acquisition Regulation; and

21 “(3) have a plan for meeting program imple-
22 mentation objectives by managing contractor per-
23 formance.

24 “(c) ADHERENCE TO STANDARDS.—The Secretary,
25 acting through the Under Secretary for Management and
26 the Commissioner of U.S. Customs and Border Protection,

1 shall ensure border security technology acquisition pro-
2 gram managers who are responsible for carrying out this
3 section adhere to relevant internal control standards iden-
4 tified by the Comptroller General of the United States.
5 The Commissioner shall provide information, as needed,
6 to assist the Under Secretary in monitoring management
7 of border security technology acquisition programs under
8 this section.

9 “(d) PLAN.—The Secretary, acting through the
10 Under Secretary for Management, in coordination with
11 the Under Secretary for Science and Technology and the
12 Commissioner of U.S. Customs and Border Protection,
13 shall submit to the appropriate congressional committees
14 a plan for testing, evaluating, and using independent
15 verification and validation resources for border security
16 technology. Under the plan, new border security tech-
17 nologies shall be evaluated through a series of assess-
18 ments, processes, and audits to ensure—

19 “(1) compliance with relevant departmental ac-
20 quisition policies and the Federal Acquisition Regu-
21 lation; and

22 “(2) the effective use of taxpayer dollars.”.

23 (b) CLERICAL AMENDMENT.—The table of contents
24 in section 1(b) of the Homeland Security Act of 2002 is

1 amended by inserting after the item relating to section
2 433 the following new item:

“Sec. 434. Border security technology program management.”.

3 (c) PROHIBITION ON ADDITIONAL AUTHORIZATION
4 OF APPROPRIATIONS.—No additional funds are author-
5 ized to be appropriated to carry out section 434 of the
6 Homeland Security Act of 2002, as added by subsection
7 (a). Such section shall be carried out using amounts other-
8 wise authorized for such purposes.

9 **SEC. 117. NATIONAL GUARD SUPPORT TO SECURE THE**
10 **SOUTHERN BORDER AND REIMBURSEMENT**
11 **OF STATES FOR DEPLOYMENT OF THE NA-**
12 **TIONAL GUARD AT THE SOUTHERN BORDER.**

13 (a) IN GENERAL.—With the approval of the Sec-
14 retary and the Secretary of Defense, the Governor of a
15 State may order any units or personnel of the National
16 Guard of such State to perform operations and missions
17 under section 502(f) of title 32, United States Code, along
18 the southern border for the purposes of assisting U.S.
19 Customs and Border Protection to achieve situational
20 awareness and operational control of the border.

21 (b) ASSIGNMENT OF OPERATIONS AND MISSIONS.—

22 (1) IN GENERAL.—National Guard units and
23 personnel deployed under subsection (a) may be as-
24 signed such operations and missions specified in sub-

1 section (c) as may be necessary to secure the south-
2 ern border.

3 (2) NATURE OF DUTY.—The duty of National
4 Guard personnel performing operations and missions
5 described in paragraph (1) shall be full-time duty
6 under title 32, United States Code.

7 (c) RANGE OF OPERATIONS AND MISSIONS.—The op-
8 erations and missions assigned under subsection (b) shall
9 include the temporary authority to—

10 (1) construct reinforced fencing or other bar-
11 riers;

12 (2) operate ground-based surveillance systems;

13 (3) operate unmanned and manned aircraft;

14 (4) provide radio communications interoper-
15 ability between U.S. Customs and Border Protection
16 and State, local, and tribal law enforcement agen-
17 cies;

18 (5) construct checkpoints along the Southern
19 border to bridge the gap to long-term permanent
20 checkpoints; and

21 (6) provide intelligence support.

22 (d) MATERIEL AND LOGISTICAL SUPPORT.—The
23 Secretary of Defense shall deploy such materiel, equip-
24 ment, and logistical support as may be necessary to ensure

1 success of the operations and missions conducted by the
2 National Guard under this section.

3 (e) EXCLUSION FROM NATIONAL GUARD PER-
4 SONNEL STRENGTH LIMITATIONS.—National Guard per-
5 sonnel deployed under subsection (a) shall not be included
6 in—

7 (1) the calculation to determine compliance
8 with limits on end strength for National Guard per-
9 sonnel; or

10 (2) limits on the number of National Guard
11 personnel that may be placed on active duty for
12 operational support under section 115 of title 10,
13 United States Code.

14 (f) REIMBURSEMENT REQUIRED.—

15 (1) IN GENERAL.—The Secretary of Defense
16 shall reimburse States for the cost of the deployment
17 of any units or personnel of the National Guard to
18 perform operations and missions in full-time State
19 Active Duty in support of a southern border mission.
20 The Secretary of Defense may not seek reimburse-
21 ment from the Secretary for any reimbursements
22 paid to States for the costs of such deployments.

23 (2) LIMITATION.—The total amount of reim-
24 bursements under this section may not exceed
25 \$35,000,000 for any fiscal year.

1 **SEC. 118. OPERATION PHALANX.**

2 (a) IN GENERAL.—The Secretary of Defense, with
3 the concurrence of the Secretary, shall provide assistance
4 to U.S. Customs and Border Protection for purposes of
5 increasing ongoing efforts to secure the southern border.

6 (b) TYPES OF ASSISTANCE AUTHORIZED.—The as-
7 sistance provided under subsection (a) may include—

8 (1) deployment of manned aircraft, unmanned
9 aerial surveillance systems, and ground-based sur-
10 veillance systems to support continuous surveillance
11 of the southern border; and

12 (2) intelligence analysis support.

13 (c) MATERIEL AND LOGISTICAL SUPPORT.—The Sec-
14 retary of Defense may deploy such materiel, equipment,
15 and logistics support as may be necessary to ensure the
16 effectiveness of the assistance provided under subsection
17 (a).

18 (d) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated for the Department of
20 Defense \$75,000,000 to provide assistance under this sec-
21 tion. The Secretary of Defense may not seek reimburse-
22 ment from the Secretary for any assistance provided under
23 this section.

24 (e) REPORTS.—

25 (1) IN GENERAL.—Not later than 90 days after
26 the date of the enactment of this Act and annually

1 thereafter, the Secretary of Defense shall submit a
2 report to the appropriate congressional defense com-
3 mittees (as defined in section 101(a)(16) of title 10,
4 United States Code) regarding any assistance pro-
5 vided under subsection (a) during the period speci-
6 fied in paragraph (3).

7 (2) ELEMENTS.—Each report under paragraph
8 (1) shall include, for the period specified in para-
9 graph (3), a description of—

10 (A) the assistance provided;

11 (B) the sources and amounts of funds used
12 to provide such assistance; and

13 (C) the amounts obligated to provide such
14 assistance.

15 (3) PERIOD SPECIFIED.—The period specified
16 in this paragraph is—

17 (A) in the case of the first report required
18 under paragraph (1), the 90-day period begin-
19 ning on the date of the enactment of this Act;
20 and

21 (B) in the case of any subsequent report
22 submitted under paragraph (1), the calendar
23 year for which the report is submitted.

1 **SEC. 119. MERIDA INITIATIVE.**

2 (a) SENSE OF CONGRESS.—It is the sense of Con-
3 gress that assistance to Mexico, including assistance from
4 the Department of State and the Department of Defense
5 and any aid related to the Merida Initiative should—

6 (1) focus on providing enhanced border security
7 at Mexico's northern and southern borders, judicial
8 reform, and support for Mexico's anti-drug efforts;
9 and

10 (2) return to its original focus and prioritize se-
11 curity, training, and acquisition of equipment for
12 Mexican security forces involved in anti-drug efforts
13 as well as be used to train prosecutors in ongoing
14 justice reform efforts.

15 (b) ASSISTANCE FOR MEXICO.—The Secretary of
16 State, in coordination with the Secretary and the Sec-
17 retary of Defense, shall provide level and consistent assist-
18 ance to Mexico to—

19 (1) combat drug production and trafficking and
20 related violence, transnational organized criminal or-
21 ganizations, and corruption;

22 (2) build a secure, modern border security sys-
23 tem capable of preventing illegal migration;

24 (3) support border security and cooperation
25 with United States military, intelligence, and law en-
26 forcement agencies on border incursions;

1 (4) support judicial reform, institution building,
2 and rule of law activities to build judicial capacity,
3 address corruption and impunity, and support
4 human rights; and

5 (5) provide for training and equipment for
6 Mexican security forces involved in efforts to eradi-
7 cate and interdict drugs.

8 (c) ALLOCATION OF FUNDS; REPORT.—

9 (1) IN GENERAL.—Notwithstanding any other
10 provision of law, 50 percent of any assistance appro-
11 priated in any appropriations Act to implement this
12 section shall be withheld until after the Secretary of
13 State submits a written report to the congressional
14 committees specified in paragraph (3) certifying that
15 the Government of Mexico is—

16 (A) significantly reducing illegal migration,
17 drug trafficking, and cross-border criminal ac-
18 tivities on Mexico’s northern and southern bor-
19 ders;

20 (B) taking significant action to address
21 corruption, impunity, and human rights abuses;
22 and

23 (C) improving the transparency and ac-
24 countability of Mexican Federal police forces
25 and working with Mexican State and municipal

1 authorities to improve the transparency and ac-
2 countability of Mexican State and municipal po-
3 lice forces.

4 (2) MATTERS TO INCLUDE.—The report re-
5 quired under paragraph (1) shall include a descrip-
6 tion of—

7 (A) actions taken by the Government of
8 Mexico to address the matters described in such
9 paragraph;

10 (B) any relevant assessments by civil soci-
11 ety and non-government organizations in Mex-
12 ico relating to such matters; and

13 (C) any instances in which the Secretary
14 determines that the actions taken by the Gov-
15 ernment of Mexico are inadequate to address
16 such matters.

17 (3) CONGRESSIONAL COMMITTEES SPECI-
18 FIED.—The congressional committees specified in
19 this paragraph are—

20 (A) the Committee on Appropriations of
21 the Senate;

22 (B) the Committee on Homeland Security
23 and Governmental Affairs of the Senate;

24 (C) the Committee on the Judiciary of the
25 Senate;

1 (D) the Committee on Foreign Relations of
2 the Senate;

3 (E) the Committee on Appropriations of
4 the House of Representatives;

5 (F) the Committee on Homeland Security
6 of the House of Representatives;

7 (G) the Committee on the Judiciary of the
8 House of Representatives; and

9 (H) the Committee on Foreign Affairs of
10 the House of Representatives.

11 (d) NOTIFICATIONS.—Any assistance made available
12 by the Secretary of State under this section shall be sub-
13 ject to—

14 (1) the notification procedures set forth in sec-
15 tion 634A of the Foreign Assistance Act of 1961 (22
16 U.S.C. 2394–1); and

17 (2) the notification requirements of—

18 (A) the Committee on Homeland Security
19 and Governmental Affairs of the Senate;

20 (B) the Committee on the Judiciary of the
21 Senate;

22 (C) the Committee on Foreign Relations of
23 the Senate;

24 (D) the Committee on Homeland Security
25 of the House of Representatives;

1 (E) the Committee on the Judiciary of the
2 House of Representatives; and

3 (F) the Committee on Foreign Affairs in
4 the House of Representatives.

5 (e) SPENDING PLAN.—

6 (1) IN GENERAL.—Not later than 45 days after
7 the date of the enactment of this Act, the Secretary
8 of State shall submit to the congressional commit-
9 tees specified in paragraph (2) a detailed spending
10 plan for assistance to Mexico under this section,
11 which shall include a strategy, developed after con-
12 sulting with relevant authorities of the Government
13 of Mexico, for—

14 (A) combating drug trafficking and related
15 violence and organized crime; and

16 (B) anti-corruption and rule of law activi-
17 ties, which shall include concrete goals, actions
18 to be taken, budget proposals, and a description
19 of anticipated results.

20 (2) CONGRESSIONAL COMMITTEES SPECI-
21 FIED.—The congressional committees specified in
22 this paragraph are—

23 (A) the Committee on Appropriations of
24 the Senate;

1 (B) the Committee on Foreign Relations of
2 the Senate;

3 (C) the Committee on Homeland Security
4 and Governmental Affairs of the Senate;

5 (D) the Committee on the Judiciary of the
6 Senate;

7 (E) the Committee on Appropriations of
8 the House of Representatives;

9 (F) the Committee on Foreign Affairs of
10 the House of Representatives;

11 (G) the Committee on Homeland Security
12 of the House of Representatives; and

13 (H) the Committee on the Judiciary of the
14 House of Representatives.

15 **SEC. 120. PROHIBITIONS ON ACTIONS THAT IMPEDE BOR-**
16 **DER SECURITY ON CERTAIN FEDERAL LAND.**

17 (a) PROHIBITION ON INTERFERENCE WITH U.S.
18 CUSTOMS AND BORDER PROTECTION.—

19 (1) IN GENERAL.—The Secretary concerned
20 shall not impede, prohibit, or restrict activities of
21 U.S. Customs and Border Protection on covered
22 Federal land to execute search and rescue operations
23 or to prevent all unlawful entries into the United
24 States, including entries by terrorists, other unlawful
25 aliens, instruments of terrorism, narcotics, and other

1 contraband through the southern border or the
2 northern border.

3 (2) APPLICABILITY.—The authority of U.S.
4 Customs and Border Protection to conduct activities
5 described in paragraph (1) on covered Federal land
6 applies without regard to whether a state of emer-
7 gency exists.

8 (b) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND
9 BORDER PROTECTION.—

10 (1) IN GENERAL.—U.S. Customs and Border
11 Protection shall have immediate access to covered
12 Federal land to conduct the activities described in
13 paragraph (2) on such land to prevent all unlawful
14 entries into the United States, including entries by
15 terrorists, other unlawful aliens, instruments of ter-
16 rorism, narcotics, and other contraband through the
17 southern border or the northern border.

18 (2) ACTIVITIES DESCRIBED.—The activities de-
19 scribed in this paragraph are—

20 (A) The use of motorized vehicles, foot pa-
21 trols, and horseback to patrol the border area,
22 apprehend illegal entrants, and rescue individ-
23 uals; and

24 (B) the construction, installation, oper-
25 ation and maintenance of tactical infrastructure

1 and border technology described in section 102
2 of the Illegal Immigration Reform and Immigrant
3 Responsibility Act of 1996 (as amended
4 by section 111 of this Act).

5 (c) CLARIFICATION RELATING TO WAIVER AUTHOR-
6 ITY.—

7 (1) IN GENERAL.—The activities of U.S. Cus-
8 toms and Border Protection described in subsection
9 (b)(2) may be carried out without regard to the pro-
10 visions of law specified in paragraph (2).

11 (2) PROVISIONS OF LAW SPECIFIED.—The pro-
12 visions of law specified in this section are all Fed-
13 eral, State, or other laws, regulations, and legal re-
14 quirements of, deriving from, or related to the sub-
15 ject of, the following laws:

16 (A) The National Environmental Policy
17 Act of 1969 (42 U.S.C. 4321 et seq.).

18 (B) The Endangered Species Act of 1973
19 (16 U.S.C. 1531 et seq.).

20 (C) The Federal Water Pollution Control
21 Act (33 U.S.C. 1251 et seq.) (commonly re-
22 ferred to as the “Clean Water Act”).

23 (D) Division A of subtitle III of title 54,
24 United States Code (54 U.S.C. 300301 et seq.)

1 (formerly known as the “National Historic
2 Preservation Act”).

3 (E) The Migratory Bird Treaty Act (16
4 U.S.C. 703 et seq.).

5 (F) The Clean Air Act (42 U.S.C. 7401 et
6 seq.).

7 (G) The Archaeological Resources Protec-
8 tion Act of 1979 (16 U.S.C. 470aa et seq.).

9 (H) The Safe Drinking Water Act (42
10 U.S.C. 300f et seq.).

11 (I) The Noise Control Act of 1972 (42
12 U.S.C. 4901 et seq.).

13 (J) The Solid Waste Disposal Act (42
14 U.S.C. 6901 et seq.).

15 (K) The Comprehensive Environmental
16 Response, Compensation, and Liability Act of
17 1980 (42 U.S.C. 9601 et seq.).

18 (L) Chapter 3125 of title 54, United
19 States Code (formerly known as the “Archae-
20 ological and Historic Preservation Act”).

21 (M) The Antiquities Act (16 U.S.C. 431 et
22 seq.).

23 (N) Chapter 3203 of title 54, United
24 States Code (formerly known as the “Historic
25 Sites, Buildings, and Antiquities Act”).

1 (O) The Wild and Scenic Rivers Act (16
2 U.S.C. 1271 et seq.).

3 (P) The Farmland Protection Policy Act
4 (7 U.S.C. 4201 et seq.).

5 (Q) The Coastal Zone Management Act of
6 1972 (16 U.S.C. 1451 et seq.).

7 (R) The Wilderness Act (16 U.S.C. 1131
8 et seq.).

9 (S) The Federal Land Policy and Manage-
10 ment Act of 1976 (43 U.S.C. 1701 et seq.).

11 (T) The National Wildlife Refuge System
12 Administration Act of 1966 (16 U.S.C. 668dd
13 et seq.).

14 (U) The Fish and Wildlife Act of 1956 (16
15 U.S.C. 742a et seq.).

16 (V) The Fish and Wildlife Coordination
17 Act (16 U.S.C. 661 et seq.).

18 (W) Subchapter II of chapter 5, and chap-
19 ter 7, of title 5, United States Code (commonly
20 known as the “Administrative Procedure Act”).

21 (X) The Otay Mountain Wilderness Act of
22 1999 (Public Law 106–145).

23 (Y) Sections 102(29) and 103 of the Cali-
24 fornia Desert Protection Act of 1994 (Public
25 Law 103–433).

1 (Z) Division A of subtitle I of title 54,
2 United States Code (formerly known as the
3 “National Park Service Organic Act”).

4 (AA) The National Park Service General
5 Authorities Act (Public Law 91–383, 16 U.S.C.
6 1a–1 et seq.).

7 (BB) Sections 401(7), 403, and 404 of the
8 National Parks and Recreation Act of 1978
9 (Public Law 95–625).

10 (CC) Sections 301(a) through (f) of the
11 Arizona Desert Wilderness Act (Public Law
12 101–628).

13 (DD) The Rivers and Harbors Act of 1899
14 (33 U.S.C. 403).

15 (EE) The Eagle Protection Act (16 U.S.C.
16 668 et seq.).

17 (FF) The Native American Graves Protec-
18 tion and Repatriation Act (25 U.S.C. 3001 et
19 seq.).

20 (GG) The American Indian Religious Free-
21 dom Act (42 U.S.C. 1996).

22 (HH) The Religious Freedom Restoration
23 Act (42 U.S.C. 2000bb).

24 (II) The National Forest Management Act
25 of 1976 (16 U.S.C. 1600 et seq.).

1 (JJ) The Multiple Use and Sustained
2 Yield Act of 1960 (16 U.S.C. 528 et seq.).

3 (3) APPLICABILITY OF WAIVER TO SUCCESSOR
4 LAWS.—If a provision of law specified in paragraph
5 (2) was repealed and incorporated into title 54,
6 United States Code, after April 1, 2008, and before
7 the date of the enactment of this Act, the waiver de-
8 scribed in paragraph (1) shall apply to the provision
9 of such title that corresponds to the provision of law
10 specified in paragraph (2) to the same extent the
11 waiver applied to that provision of law.

12 (d) PROTECTION OF LEGAL USES.—This section may
13 not be construed to provide—

14 (1) authority to restrict legal uses, such as
15 grazing, hunting, mining, or recreation or the use of
16 backcountry airstrips, on land under the jurisdiction
17 of the Secretary of the Interior or the Secretary of
18 Agriculture; or

19 (2) any additional authority to restrict legal ac-
20 cess to such land.

21 (e) EFFECT ON STATE AND PRIVATE LAND.—This
22 section shall—

23 (1) have no force or effect on State lands or
24 private lands; and

1 (2) not provide authority on or access to State
2 lands or private lands.

3 (f) TRIBAL SOVEREIGNTY.—Nothing in this section
4 may be construed to supersede, replace, negate, or dimin-
5 ish treaties or other agreements between the United States
6 and Indian tribes.

7 (g) DEFINITIONS.—In this section:

8 (1) COVERED FEDERAL LAND.—The term “cov-
9 ered Federal land” includes all land under the con-
10 trol of the Secretary concerned that is located within
11 100 miles of the southern border or the northern
12 border.

13 (2) SECRETARY CONCERNED.—The term “Sec-
14 retary concerned” means—

15 (A) with respect to land under the jurisdic-
16 tion of the Department of Agriculture, the Sec-
17 retary of Agriculture; and

18 (B) with respect to land under the jurisdic-
19 tion of the Department of the Interior, the Sec-
20 retary of the Interior.

21 **SEC. 121. LANDOWNER AND RANCHER SECURITY ENHANCE-**
22 **MENT.**

23 (a) ESTABLISHMENT OF NATIONAL BORDER SECU-
24 RITY ADVISORY COMMITTEE.—The Secretary shall estab-

lish a National Border Security Advisory Committee,
which—

(1) may advise, consult with, report to, and
make recommendations to the Secretary on matters
relating to border security matters, including—

(A) verifying security claims and the border security metrics established by the Department of Homeland Security under section 1092 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 6 U.S.C. 223); and

(B) discussing ways to improve the security of high traffic areas along the northern border and the southern border; and

(2) may provide, through the Secretary, recommendations to Congress.

(b) CONSIDERATION OF VIEWS.—The Secretary shall consider the information, advice, and recommendations of the National Border Security Advisory Committee in formulating policy regarding matters affecting border security.

(c) MEMBERSHIP.—The National Border Security Advisory Committee shall consist of at least one member from each State who—

1 (1) has at least five years practical experience
2 in border security operations; or

3 (2) lives and works in the United States within
4 80 miles from the southern border or the northern
5 border.

6 (d) NONAPPLICABILITY OF FEDERAL ADVISORY
7 COMMITTEE ACT.—The Federal Advisory Committee Act
8 (5 U.S.C. App.) shall not apply to the National Border
9 Security Advisory Committee.

10 **SEC. 122. ERADICATION OF CARRIZO CANE AND SALT**
11 **CEDAR.**

12 Not later than January 20, 2021, the Secretary, after
13 coordinating with the heads of the relevant Federal, State,
14 and local agencies, shall begin eradicating the carrizo cane
15 plant and any salt cedar along the Rio Grande River.

16 **SEC. 123. SOUTHERN BORDER THREAT ANALYSIS.**

17 (a) THREAT ANALYSIS.—

18 (1) REQUIREMENT.—Not later than 180 days
19 after the date of the enactment of this Act, the Sec-
20 retary shall submit to the Committee on Homeland
21 Security of the House of Representatives and the
22 Committee on Homeland Security and Governmental
23 Affairs of the Senate a Southern border threat anal-
24 ysis.

1 (2) CONTENTS.—The analysis submitted under
2 paragraph (1) shall include an assessment of—

3 (A) current and potential terrorism and
4 criminal threats posed by individuals and orga-
5 nized groups seeking—

6 (i) to unlawfully enter the United
7 States through the Southern border; or

8 (ii) to exploit security vulnerabilities
9 along the Southern border;

10 (B) improvements needed at and between
11 ports of entry along the Southern border to pre-
12 vent terrorists and instruments of terror from
13 entering the United States;

14 (C) gaps in law, policy, and coordination
15 between State, local, or tribal law enforcement,
16 international agreements, or tribal agreements
17 that hinder effective and efficient border secu-
18 rity, counterterrorism, and anti-human smug-
19 gling and trafficking efforts;

20 (D) the current percentage of situational
21 awareness achieved by the Department along
22 the Southern border;

23 (E) the current percentage of operational
24 control achieved by the Department on the
25 Southern border; and

1 (F) traveler crossing times and any poten-
2 tial security vulnerability associated with pro-
3 longed wait times.

4 (3) ANALYSIS REQUIREMENTS.—In compiling
5 the Southern border threat analysis required under
6 this subsection, the Secretary shall consider and ex-
7 amine—

8 (A) the technology needs and challenges,
9 including such needs and challenges identified
10 as a result of previous investments that have
11 not fully realized the security and operational
12 benefits that were sought;

13 (B) the personnel needs and challenges, in-
14 cluding such needs and challenges associated
15 with recruitment and hiring;

16 (C) the infrastructure needs and chal-
17 lenges;

18 (D) the roles and authorities of State,
19 local, and tribal law enforcement in general bor-
20 der security activities;

21 (E) the status of coordination among Fed-
22 eral, State, local, tribal, and Mexican law en-
23 forcement entities relating to border security;

24 (F) the terrain, population density, and cli-
25 mate along the Southern border; and

1 (G) the international agreements between
2 the United States and Mexico related to border
3 security.

4 (4) CLASSIFIED FORM.—To the extent possible,
5 the Secretary shall submit the Southern border
6 threat analysis required under this subsection in un-
7 classified form, but may submit a portion of the
8 threat analysis in classified form if the Secretary de-
9 termines such action is appropriate.

10 (b) U.S. BORDER PATROL STRATEGIC PLAN.—

11 (1) IN GENERAL.—Not later than 180 days
12 after the submission of the threat analysis required
13 under subsection (a) or June 30, 2018, and every
14 five years thereafter, the Secretary, acting through
15 the Chief of the U.S. Border Patrol, shall issue a
16 Border Patrol Strategic Plan.

17 (2) CONTENTS.—The Border Patrol Strategic
18 Plan required under this subsection shall include a
19 consideration of—

20 (A) the Southern border threat analysis re-
21 quired under subsection (a), with an emphasis
22 on efforts to mitigate threats identified in such
23 threat analysis;

24 (B) efforts to analyze and disseminate bor-
25 der security and border threat information be-

1 tween border security components of the De-
2 partment and other appropriate Federal depart-
3 ments and agencies with missions associated
4 with the Southern border;

5 (C) efforts to increase situational aware-
6 ness, including—

7 (i) surveillance capabilities, including
8 capabilities developed or utilized by the
9 Department of Defense, and any appro-
10 priate technology determined to be excess
11 by the Department of Defense; and

12 (ii) the use of manned aircraft and
13 unmanned aerial systems, including cam-
14 era and sensor technology deployed on
15 such assets;

16 (D) efforts to detect and prevent terrorists
17 and instruments of terrorism from entering the
18 United States;

19 (E) efforts to detect, interdict, and disrupt
20 aliens and illicit drugs at the earliest possible
21 point;

22 (F) efforts to focus intelligence collection
23 to disrupt transnational criminal organizations
24 outside of the international and maritime bor-
25 ders of the United States;

1 (G) efforts to ensure that any new border
2 security technology can be operationally inte-
3 grated with existing technologies in use by the
4 Department;

5 (H) any technology required to maintain,
6 support, and enhance security and facilitate
7 trade at ports of entry, including nonintrusive
8 detection equipment, radiation detection equip-
9 ment, biometric technology, surveillance sys-
10 tems, and other sensors and technology that the
11 Secretary determines to be necessary;

12 (I) operational coordination unity of effort
13 initiatives of the border security components of
14 the Department, including any relevant task
15 forces of the Department;

16 (J) lessons learned from Operation
17 Jumpstart and Operation Phalanx;

18 (K) cooperative agreements and informa-
19 tion sharing with State, local, tribal, territorial,
20 and other Federal law enforcement agencies
21 that have jurisdiction on the Northern border
22 or the Southern border;

23 (L) border security information received
24 from consultation with State, local, tribal, terri-
25 torial, and Federal law enforcement agencies

1 that have jurisdiction on the Northern border
2 or the Southern border, or in the maritime en-
3 vironment, and from border community stake-
4 holders (including through public meetings with
5 such stakeholders), including representatives
6 from border agricultural and ranching organiza-
7 tions and representatives from business and
8 civic organizations along the Northern border
9 or the Southern border;

10 (M) staffing requirements for all depart-
11 mental border security functions;

12 (N) a prioritized list of departmental re-
13 search and development objectives to enhance
14 the security of the Southern border;

15 (O) an assessment of training programs,
16 including training programs for—

17 (i) identifying and detecting fraudu-
18 lent documents;

19 (ii) understanding the scope of en-
20 forcement authorities and the use of force
21 policies; and

22 (iii) screening, identifying, and ad-
23 dressing vulnerable populations, such as
24 children and victims of human trafficking;
25 and

1 (P) an assessment of how border security
2 operations affect border crossing times.

3 **SEC. 124. AMENDMENTS TO U.S. CUSTOMS AND BORDER**
4 **PROTECTION.**

5 (a) DUTIES.—Subsection (c) of section 411 of the
6 Homeland Security Act of 2002 (6 U.S.C. 211) is amend-
7 ed—

8 (1) in paragraph (17), by striking “and” after
9 the semicolon at the end;

10 (2) by redesignating paragraph (18) as para-
11 graph (20); and

12 (3) by inserting after paragraph (17) the fol-
13 lowing new paragraphs:

14 “(18) administer the U.S. Customs and Border
15 Protection public private partnerships under subtitle
16 G;

17 “(19) administer preclearance operations under
18 the Preclearance Authorization Act of 2015 (19
19 U.S.C. 4431 et seq.; enacted as subtitle B of title
20 VIII of the Trade Facilitation and Trade Enforce-
21 ment Act of 2015; 19 U.S.C. 4301 et seq.); and”.

22 (b) OFFICE OF FIELD OPERATIONS STAFFING.—
23 Subparagraph (A) of section 411(g)(5) of the Homeland
24 Security Act of 2002 (6 U.S.C. 211(g)(5)) is amended by
25 inserting before the period at the end the following: “com-

1 pared to the number indicated by the current fiscal year
2 work flow staffing model”.

3 (c) IMPLEMENTATION PLAN.—Subparagraph (B) of
4 section 814(e)(1) of the Preclearance Authorization Act
5 of 2015 (19 U.S.C. 4433(e)(1); enacted as subtitle B of
6 title VIII of the Trade Facilitation and Trade Enforce-
7 ment Act of 2015; 19 U.S.C. 4301 et seq.) is amended
8 to read as follows:

9 “(B) a port of entry vacancy rate which
10 compares the number of officers identified in
11 subparagraph (A) with the number of officers
12 at the port at which such officer is currently as-
13 signed.”.

14 **Subtitle B—Personnel**

15 **SEC. 131. ADDITIONAL U.S. CUSTOMS AND BORDER PRO-** 16 **TECTION AGENTS AND OFFICERS.**

17 (a) BORDER PATROL AGENTS.—Not later than Sep-
18 tember 30, 2021, the Commissioner of U.S. Customs and
19 Border Protection shall hire, train, and assign sufficient
20 agents to maintain an active duty presence of not fewer
21 than 26,370 full-time equivalent agents.

22 (b) CBP OFFICERS.—In addition to positions author-
23 ized before the date of the enactment of this Act and any
24 existing officer vacancies within U.S. Customs and Border
25 Protection as of such date, the Commissioner shall hire,

1 train, and assign to duty, not later than September 30,
2 2021—

3 (1) sufficient U.S. Customs and Border Protec-
4 tion officers to maintain an active duty presence of
5 not fewer than 27,725 full-time equivalent officers;
6 and

7 (2) 350 full-time support staff distributed
8 among all United States ports of entry.

9 (c) AIR AND MARINE OPERATIONS.—Not later than
10 September 30, 2021, the Commissioner of U.S. Customs
11 and Border Protection shall hire, train, and assign suffi-
12 cient agents for Air and Marine Operations of U.S. Cus-
13 toms and Border Protection to maintain not fewer than
14 1,675 full-time equivalent agents and not fewer than 264
15 Marine and Air Interdiction Agents for southern border
16 air and maritime operations.

17 (d) U.S. CUSTOMS AND BORDER PROTECTION K–9
18 UNITS AND HANDLERS.—

19 (1) K–9 UNITS.—Not later than September 30,
20 2021, the Commissioner shall deploy not fewer than
21 300 new K–9 units, with supporting officers of U.S.
22 Customs and Border Protection and other required
23 staff, at land ports of entry and checkpoints, on the
24 southern border and the northern border.

1 (2) USE OF CANINES.—The Commissioner shall
2 prioritize the use of canines at the primary inspec-
3 tion lanes at land ports of entry and checkpoints.

4 (e) U.S. CUSTOMS AND BORDER PROTECTION
5 HORSEBACK UNITS.—

6 (1) INCREASE.—Not later than September 30,
7 2021, the Commissioner shall increase the number
8 of horseback units, with supporting officers of U.S.
9 Customs and Border Protection and other required
10 staff, by not fewer than 100 officers and 50 horses
11 for security patrol along the Southern border.

12 (2) FUNDING LIMITATION.—Of the amounts
13 authorized to be appropriated for U.S. Customs and
14 Border Protection under this Act, not more than one
15 percent may be used for the purchase of additional
16 horses, the construction of new stables, maintenance
17 and improvements of existing stables, and for feed,
18 medicine, and other resources needed to maintain
19 the health and well-being of the horses that serve in
20 the horseback units.

21 (f) U.S. CUSTOMS AND BORDER PROTECTION
22 SEARCH TRAUMA AND RESCUE TEAMS.—Not later than
23 September 30, 2021, the Commissioner shall increase by
24 not fewer than 50 the number of officers engaged in
25 search and rescue activities along the southern border.

1 (g) U.S. CUSTOMS AND BORDER PROTECTION TUN-
2 NEL DETECTION AND TECHNOLOGY PROGRAM.—Not
3 later than September 30, 2021, the Commissioner shall
4 increase by not fewer than 50 the number of officers as-
5 sisting task forces and activities related to deployment and
6 operation of border tunnel detection technology and appre-
7 hensions of individuals using such tunnels for crossing
8 into the United States, drug trafficking, or human smug-
9 gling.

10 (h) AGRICULTURAL SPECIALISTS.—Not later than
11 September 30, 2021, the Secretary shall hire, train, and
12 assign to duty, in addition to the officers and agents au-
13 thorized under subsections (a) through (g), 631 U.S. Cus-
14 toms and Border Protection agricultural specialists to
15 ports of entry along the southern border and the northern
16 border.

17 (i) GAO REPORT.—If the staffing levels required
18 under this section are not achieved by September 30,
19 2021, the Comptroller General of the United States shall
20 conduct a review of the reasons why such levels were not
21 achieved.

22 **SEC. 132. U.S. CUSTOMS AND BORDER PROTECTION RETEN-**
23 **TION INCENTIVES.**

24 (a) DEFINITIONS.—In this section:

1 (1) COVERED AREA.—The term “covered area”
2 means a geographic area that the Secretary deter-
3 mines is in a remote location or is an area for which
4 it is difficult to find full-time permanent covered
5 CBP employees, as compared to other ports of entry
6 or Border Patrol sectors.

7 (2) COVERED CBP EMPLOYEE.—The term “cov-
8 ered CBP employee” means an employee of U.S.
9 Customs and Border Protection performing activities
10 that are critical to border security or customs en-
11 forcement, as determined by the Commissioner.

12 (3) RATE OF BASIC PAY.—The term “rate of
13 basic pay”—

14 (A) means the rate of pay fixed by law or
15 administrative action for the position to which
16 an employee is appointed before deductions and
17 including any special rate under subpart C of
18 part 530 of title 5, Code of Federal Regula-
19 tions, or similar payment under other legal au-
20 thority, and any locality-based comparability
21 payment under subpart F of part 531 of title
22 5, Code of Federal Regulations, or similar pay-
23 ment under other legal authority, but excluding
24 additional pay of any other kind; and

1 (B) does not include additional pay, such
2 as night shift differentials under section
3 5343(f) of title 5, United States Code, or envi-
4 ronmental differentials under section
5 5343(c)(4) of such title.

6 (4) SPECIAL RATE OF PAY.—The term “special
7 rate of pay” means a higher than normal rate of pay
8 that exceeds the otherwise applicable rate of basic
9 pay for a similar covered CBP employee at a land
10 port of entry.

11 (b) HIRING INCENTIVES.—

12 (1) IN GENERAL.—To the extent necessary for
13 U.S. Customs and Border Protection to hire, train,
14 and deploy qualified officers and employees, and to
15 the extent necessary to meet the requirements set
16 forth in section 131, the Commissioner, with the ap-
17 proval of the Secretary, may pay a hiring bonus of
18 \$10,000 to a covered CBP employee, after the cov-
19 ered CBP completes initial basic training and exe-
20 cutes a written agreement required under paragraph
21 (2).

22 (2) WRITTEN AGREEMENT.—The payment of a
23 hiring bonus to a covered CBP employee under
24 paragraph (1) is contingent upon the covered CBP
25 employee entering into a written agreement with

1 U.S. Customs and Border Protection to complete
2 more than two years of employment with U.S. Customs and Border Protection beginning on the date
3 on which the agreement is signed. Such agreement
4 shall include—
5

6 (A) the amount of the hiring bonus;

7 (B) the conditions under which the agree-
8 ment may be terminated before the required pe-
9 riod of service is completed and the effect of
10 such termination;

11 (C) the length of the required service pe-
12 riod; and

13 (D) any other terms and conditions under
14 which the hiring bonus is payable, subject to
15 the requirements under this section.

16 (3) FORM OF PAYMENT.—A signing bonus paid
17 to a covered CBP employee under paragraph (1)
18 shall be paid in a single payment after the covered
19 CBP employee completes initial basic training and
20 enters on duty and executed the agreement under
21 paragraph (2).

22 (4) EXCLUSION OF SIGNING BONUS FROM RATE
23 OF PAY.—A signing bonus paid to a covered CBP
24 employee under paragraph (1) shall not be consid-

1 ered part of the rate of basic pay of the covered
2 CBP employee for any purpose.

3 (5) EFFECTIVE DATE AND SUNSET.—This sub-
4 section shall take effect on the date of the enactment
5 of this Act and shall remain in effect until the ear-
6 lier of—

7 (A) September 30, 2019; or

8 (B) the date on which U.S. Customs and
9 Border Protection has 26,370 full-time equiva-
10 lent agents.

11 (c) RETENTION INCENTIVES.—

12 (1) IN GENERAL.—To the extent necessary for
13 U.S. Customs and Border Protection to retain quali-
14 fied employees, and to the extent necessary to meet
15 the requirements set forth in section 131, the Com-
16 missioner, with the approval of the Secretary, may
17 pay a retention incentive to a covered CBP employee
18 who has been employed with U.S. Customs and Bor-
19 der Protection for a period of longer than two con-
20 secutive years, and the Commissioner determines
21 that, in the absence of the retention incentive, the
22 covered CBP employee would likely—

23 (A) leave the Federal service; or

1 (B) transfer to, or be hired into, a dif-
2 ferent position within the Department (other
3 than another position in CBP).

4 (2) WRITTEN AGREEMENT.—The payment of a
5 retention incentive to a covered CBP employee under
6 paragraph (1) is contingent upon the covered CBP
7 employee entering into a written agreement with
8 U.S. Customs and Border Protection to complete
9 more than two years of employment with U.S. Cus-
10 toms and Border Protection beginning on the date
11 on which the CBP employee enters on duty and the
12 agreement is signed. Such agreement shall include—

13 (A) the amount of the retention incentive;

14 (B) the conditions under which the agree-
15 ment may be terminated before the required pe-
16 riod of service is completed and the effect of
17 such termination;

18 (C) the length of the required service pe-
19 riod; and

20 (D) any other terms and conditions under
21 which the retention incentive is payable, subject
22 to the requirements under this section.

23 (3) CRITERIA.—When determining the amount
24 of a retention incentive paid to a covered CBP em-

1 ployee under paragraph (1), the Commissioner shall
2 consider—

3 (A) the length of the Federal service and
4 experience of the covered CBP employee;

5 (B) the salaries for law enforcement offi-
6 cers in other Federal agencies; and

7 (C) the costs of replacing the covered CBP
8 employee, including the costs of training a new
9 employee.

10 (4) AMOUNT OF RETENTION INCENTIVE.—A re-
11 tention incentive paid to a covered CBP employee
12 under paragraph (1)—

13 (A) shall be approved by the Secretary and
14 the Commissioner;

15 (B) shall be stated as a percentage of the
16 employee's rate of basic pay for the service pe-
17 riod associated with the incentive; and

18 (C) may not exceed \$25,000 for each year
19 of the written agreement.

20 (5) FORM OF PAYMENT.—A retention incentive
21 paid to a covered CBP employee under paragraph
22 (1) shall be paid as a single payment at the end of
23 the fiscal year in which the covered CBP employee
24 entered into an agreement under paragraph (2), or

1 in equal installments during the life of the service
2 agreement, as determined by the Commissioner.

3 (6) EXCLUSION OF RETENTION INCENTIVE
4 FROM RATE OF PAY.—A retention incentive paid to
5 a covered CBP employee under paragraph (1) shall
6 not be considered part of the rate of basic pay of the
7 covered CBP employee for any purpose.

8 (d) PILOT PROGRAM ON SPECIAL RATES OF PAY IN
9 COVERED AREAS.—

10 (1) IN GENERAL.—The Commissioner may es-
11 tablish a pilot program to assess the feasibility and
12 advisability of using special rates of pay for covered
13 CBP employees in covered areas, as designated on
14 the date of the enactment of this Act, to help meet
15 the requirements set forth in section 131.

16 (2) MAXIMUM AMOUNT.—The rate of basic pay
17 of a covered CBP employee paid a special rate of
18 pay under the pilot program may not exceed 125
19 percent of the otherwise applicable rate of basic pay
20 of the covered CBP employee.

21 (3) TERMINATION.—

22 (A) IN GENERAL.—Except as provided in
23 subparagraph (B), the pilot program shall ter-
24minate on the date that is two years after the
25 date of the enactment of this Act.

1 (B) EXTENSION.—If the Secretary deter-
2 mines that the pilot program is performing sat-
3 isfactorily and there are metrics that prove its
4 success in meeting the requirements set forth in
5 section 131, the Secretary may extend the pilot
6 program until the date that is four years after
7 the date of the enactment of this Act.

8 (4) REPORT TO CONGRESS.—Shortly after the
9 pilot program terminates under paragraph (3), the
10 Commissioner shall submit a report to the Com-
11 mittee on Homeland Security and Governmental Af-
12 fairs of the Senate, the Committee on the Judiciary
13 of the Senate, the Committee on Homeland Security
14 of the House of Representatives, and the Committee
15 on the Judiciary of the House of Representatives
16 that details—

17 (A) the total amount paid to covered CBP
18 employees under the pilot program; and

19 (B) the covered areas in which the pilot
20 program was implemented.

21 (e) SALARIES.—

22 (1) IN GENERAL.—Section 101(b) of the En-
23 hanced Border Security and Visa Entry Reform Act
24 of 2002 (8 U.S.C. 1711(b)) is amended to read as
25 follows:

1 “(b) AUTHORIZATION OF APPROPRIATIONS FOR CBP
2 EMPLOYEES.—There are authorized to be appropriated to
3 U.S. Customs and Border Protection such sums as may
4 be necessary to increase, effective January 1, 2018, the
5 annual rate of basic pay for U.S. Customs and Border
6 Protection employees who have completed at least one year
7 of service—

8 “(1) to the annual rate of basic pay payable for
9 positions at GS–12, step 1 of the General Schedule
10 under subchapter III of chapter 53 of title 5, United
11 States Code, for officers and agents who are receiv-
12 ing the annual rate of basic pay payable for a posi-
13 tion at GS–5, GS–6, GS–7, GS–8, or GS–9 of the
14 General Schedule;

15 “(2) to the annual rate of basic pay payable for
16 positions at GS–12, step 10 of the General Schedule
17 under such subchapter for supervisory CBP officers
18 and supervisory agents who are receiving the annual
19 rate of pay payable for a position at GS–10 of the
20 General Schedule;

21 “(3) to the annual rate of basic pay payable for
22 positions at GS–14, step 1 of the General Schedule
23 under such subchapter for supervisory CBP officers
24 and supervisory agents who are receiving the annual

1 rate of pay payable for a position at GS-11 of the
2 General Schedule;

3 “(4) to the annual rate of basic pay payable for
4 positions at GS-12, step 10 of the General Schedule
5 under such subchapter for supervisory CBP officers
6 and supervisory Border Patrol agents who are re-
7 ceiving the annual rate of pay payable for a position
8 at GS-12 or GS-13 of the General Schedule; and

9 “(5) to the annual rate of basic pay payable for
10 positions at GS-8, GS-9, or GS-10 of the General
11 Schedule for assistants who are receiving an annual
12 rate of pay payable for positions at GS-5, GS-6, or
13 GS-7 of the General Schedule, respectively.”.

14 (2) HARDSHIP DUTY PAY.—In addition to com-
15 pensation to which Border Patrol agents are other-
16 wise entitled, Border Patrol agents who are assigned
17 to rural areas shall be entitled to receive hardship
18 duty pay, in lieu of a retention incentive under sub-
19 section (b), in an amount determined by the Com-
20 missioner, which may not exceed the rate of special
21 pay to which members of a uniformed service are en-
22 titled under section 310 of title 37, United States
23 Code.

24 (3) OVERTIME LIMITATION.—Section 5(c)(1) of
25 the Act of February 13, 1911 (19 U.S.C. 267(c)(1))

1 is amended by striking “\$25,000” and inserting
2 “\$45,000”.

3 **SEC. 133. ANTI-BORDER CORRUPTION REAUTHORIZATION**
4 **ACT.**

5 (a) **SHORT TITLE.**—This section may be cited as the
6 “Anti-Border Corruption Reauthorization Act of 2017”.

7 (b) **HIRING FLEXIBILITY.**—Section 3 of the Anti-
8 Border Corruption Act of 2010 (6 U.S.C. 221) is amended
9 by striking subsection (b) and inserting the following new
10 subsections:

11 “(b) **WAIVER AUTHORITY.**—The Commissioner of
12 U.S. Customs and Border Protection may waive the appli-
13 cation of subsection (a)(1)—

14 “(1) to a current, full-time law enforcement of-
15 ficer employed by a State or local law enforcement
16 agency who—

17 “(A) has continuously served as a law en-
18 forcement officer for not fewer than three
19 years;

20 “(B) is authorized by law to engage in or
21 supervise the prevention, detection, investiga-
22 tion, or prosecution of, or the incarceration of
23 any person for, any violation of law, and has
24 statutory powers for arrest or apprehension;

1 “(C) is not currently under investigation,
2 has not been found to have engaged in criminal
3 activity or serious misconduct, has not resigned
4 from a law enforcement officer position under
5 investigation or in lieu of termination, and has
6 not been dismissed from a law enforcement offi-
7 cer position; and

8 “(D) has, within the past ten years, suc-
9 cessfully completed a polygraph examination as
10 a condition of employment with such officer’s
11 current law enforcement agency;

12 “(2) to a current, full-time Federal law enforce-
13 ment officer who—

14 “(A) has continuously served as a law en-
15 forcement officer for not fewer than three
16 years;

17 “(B) is authorized to make arrests, con-
18 duct investigations, conduct searches, make sei-
19 zures, carry firearms, and serve orders, war-
20 rants, and other processes;

21 “(C) is not currently under investigation,
22 has not been found to have engaged in criminal
23 activity or serious misconduct, has not resigned
24 from a law enforcement officer position under
25 investigation or in lieu of termination, and has

1 not been dismissed from a law enforcement offi-
2 cer position; and

3 “(D) holds a current Tier 4 background
4 investigation or current Tier 5 background in-
5 vestigation; and

6 “(3) to a member of the Armed Forces (or a re-
7 serve component thereof) or a veteran, if such indi-
8 vidual—

9 “(A) has served in the Armed Forces for
10 not fewer than three years;

11 “(B) holds, or has held within the past five
12 years, a Secret, Top Secret, or Top Secret/Sen-
13 sitive Compartmented Information clearance;

14 “(C) holds, or has undergone within the
15 past five years, a current Tier 4 background in-
16 vestigation or current Tier 5 background inves-
17 tigation;

18 “(D) received, or is eligible to receive, an
19 honorable discharge from service in the Armed
20 Forces and has not engaged in criminal activity
21 or committed a serious military or civil offense
22 under the Uniform Code of Military Justice;
23 and

1 “(E) was not granted any waivers to ob-
2 tain the clearance referred to subparagraph
3 (B).

4 “(c) TERMINATION OF WAIVER AUTHORITY.—The
5 authority to issue a waiver under subsection (b) shall ter-
6 minate on the date that is four years after the date of
7 the enactment of the Border Security for America Act of
8 2017.”.

9 (c) SUPPLEMENTAL COMMISSIONER AUTHORITY AND
10 DEFINITIONS.—

11 (1) SUPPLEMENTAL COMMISSIONER AUTHOR-
12 ITY.—Section 4 of the Anti-Border Corruption Act
13 of 2010 is amended to read as follows:

14 **“SEC. 4. SUPPLEMENTAL COMMISSIONER AUTHORITY.**

15 “(a) NON-EXEMPTION.—An individual who receives a
16 waiver under section 3(b) is not exempt from other hiring
17 requirements relating to suitability for employment and
18 eligibility to hold a national security designated position,
19 as determined by the Commissioner of U.S. Customs and
20 Border Protection.

21 “(b) BACKGROUND INVESTIGATIONS.—Any indi-
22 vidual who receives a waiver under section 3(b) who holds
23 a current Tier 4 background investigation shall be subject
24 to a Tier 5 background investigation.

1 “(c) ADMINISTRATION OF POLYGRAPH EXAMINA-
2 TION.—The Commissioner of U.S. Customs and Border
3 Protection is authorized to administer a polygraph exam-
4 ination to an applicant or employee who is eligible for or
5 receives a waiver under section 3(b) if information is dis-
6 covered before the completion of a background investiga-
7 tion that results in a determination that a polygraph ex-
8 amination is necessary to make a final determination re-
9 garding suitability for employment or continued employ-
10 ment, as the case may be.”.

11 (2) REPORT.—The Anti-Border Corruption Act
12 of 2010, as amended by paragraph (1), is further
13 amended by adding at the end the following new sec-
14 tion:

15 **“SEC. 5. REPORTING.**

16 “(a) ANNUAL REPORT.—Not later than one year
17 after the date of the enactment of this section and annu-
18 ally thereafter while the waiver authority under section
19 3(b) is in effect, the Commissioner of U.S. Customs and
20 Border Protection shall submit to Congress a report that
21 includes, with respect to each such reporting period—

22 “(1) the number of waivers requested, granted,
23 and denied under section 3(b);

24 “(2) the reasons for any denials of such waiver;

1 “(3) the percentage of applicants who were
2 hired after receiving a waiver;

3 “(4) the number of instances that a polygraph
4 was administered to an applicant who initially re-
5 ceived a waiver and the results of such polygraph;

6 “(5) an assessment of the current impact of the
7 polygraph waiver program on filling law enforcement
8 positions at U.S. Customs and Border Protection;
9 and

10 “(6) additional authorities needed by U.S. Cus-
11 toms and Border Protection to better utilize the
12 polygraph waiver program for its intended goals.

13 “(b) ADDITIONAL INFORMATION.—The first report
14 submitted under subsection (a) shall include—

15 “(1) an analysis of other methods of employ-
16 ment suitability tests that detect deception and could
17 be used in conjunction with traditional background
18 investigations to evaluate potential employees for
19 suitability; and

20 “(2) a recommendation regarding whether a
21 test referred to in paragraph (1) should be adopted
22 by U.S. Customs and Border Protection when the
23 polygraph examination requirement is waived pursu-
24 ant to section 3(b).”.

1 (3) DEFINITIONS.—The Anti-Border Corrup-
2 tion Act of 2010, as amended by paragraphs (1) and
3 (2), is further amended by adding at the end the fol-
4 lowing new section:

5 **“SEC. 6. DEFINITIONS.**

6 “In this Act:

7 “(1) FEDERAL LAW ENFORCEMENT OFFICER.—
8 The term ‘Federal law enforcement officer’ means a
9 ‘law enforcement officer’ defined in section 8331(20)
10 or 8401(17) of title 5, United States Code.

11 “(2) SERIOUS MILITARY OR CIVIL OFFENSE.—
12 The term ‘serious military or civil offense’ means an
13 offense for which—

14 “(A) a member of the Armed Forces may
15 be discharged or separated from service in the
16 Armed Forces; and

17 “(B) a punitive discharge is, or would be,
18 authorized for the same or a closely related of-
19 fense under the Manual for Court-Martial, as
20 pursuant to Army Regulation 635-200 chapter
21 14–12.

22 “(3) TIER 4; TIER 5.—The terms ‘Tier 4’ and
23 ‘Tier 5’ with respect to background investigations
24 have the meaning given such terms under the 2012
25 Federal Investigative Standards.

1 “(4) VETERAN.—The term ‘veteran’ has the
2 meaning given such term in section 101(2) of title
3 38, United States Code.”.

(d) POLYGRAPH EXAMINERS.—Not later than September 30, 2021, the Secretary shall increase to not fewer than 150 the number of trained full-time equivalent polygraph examiners for administering polygraphs under the Anti-Border Corruption Act of 2010, as amended by this subtitle.

Subtitle C—Grants

11 SEC. 141. OPERATION STONEGARDEN.

(a) IN GENERAL.—Subtitle A of title XX of the Homeland Security Act of 2002 (6 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

15 **“SEC. 2009. OPERATION STONEGARDEN.**

“(a) ESTABLISHMENT.—There is established in the Department a program to be known as ‘Operation Stonegarden’, under which the Secretary, acting through the Administrator, shall make grants to eligible law enforcement agencies, through the State administrative agency, to enhance border security in accordance with this section.

23 “(b) ELIGIBLE RECIPIENTS.—To be eligible to re-
24 ceive a grant under this section, a law enforcement agen-
25 cy—

1 “(1) shall be located in—

2 “(A) a State bordering Canada or Mexico;

3 or

4 “(B) a State or territory with a maritime
5 border; and

6 “(2) shall be involved in an active, ongoing,
7 U.S. Customs and Border Protection operation co-
8 ordinated through a U.S. Border Patrol sector of-
9 fice.

10 “(c) PERMITTED USES.—The recipient of a grant
11 under this section may use such grant for—

12 “(1) equipment, including maintenance and
13 sustainment costs;

14 “(2) personnel, including overtime and backfill,
15 in support of enhanced border law enforcement ac-
16 tivities;

17 “(3) any activity permitted for Operation
18 Stonegarden under the Department of Homeland
19 Security’s Fiscal Year 2017 Homeland Security
20 Grant Program Notice of Funding Opportunity; and

21 “(4) any other appropriate activity, as deter-
22 mined by the Administrator, in consultation with the
23 Commissioner of U.S. Customs and Border Protec-
24 tion.

1 “(d) PERIOD OF PERFORMANCE.—The Secretary
2 shall award grants under this section to grant recipients
3 for a period of not less than 36 months.

4 “(e) REPORT.—For each of the fiscal years 2018
5 through 2022, the Administrator shall submit to the Com-
6 mittee on Homeland Security and Governmental Affairs
7 of the Senate and the Committee on Homeland Security
8 of the House of Representatives a report that contains in-
9 formation on the expenditure of grants made under this
10 section by each grant recipient.

11 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
12 is authorized to be appropriated \$110,000,000 for each
13 of the fiscal years 2018 through 2022 for grants under
14 this section.”.

15 (b) CONFORMING AMENDMENT.—Subsection (a) of
16 section 2002 of the Homeland Security Act of 2002 (6
17 U.S.C. 603) is amended to read as follows:

18 “(a) GRANTS AUTHORIZED.—The Secretary, through
19 the Administrator, may award grants under sections 2003,
20 2004, and 2009 to State, local, and tribal governments,
21 as appropriate.”.

22 (c) CLERICAL AMENDMENT.—The table of contents
23 in section 1(b) of the Homeland Security Act of 2002 is
24 amended by inserting after the item relating to section
25 2008 the following:

“Sec. 2009. Operation Stonegarden.”.

1 **Subtitle D—Authorization of**
2 **Appropriations**

3 **SEC. 151. AUTHORIZATION OF APPROPRIATIONS.**

4 In addition to amounts otherwise authorized to be ap-
5 propriated, there are authorized to be appropriated for
6 each of the fiscal years 2018 through 2021,
7 \$2,500,000,000 to implement this title and the amend-
8 ments made by this title, of which—

9 (1) \$10,000,000 shall be used by the Depart-
10 ment of Homeland Security to implement Vehicle
11 and Dismount Exploitation Radars (VADER) in
12 border security operations;

13 (2) \$200,000,000 shall be used by the Depart-
14 ment of State to implement section 119; and

15 (3) \$200,000,000 shall be used by the United
16 States Coast Guard to implement paragraph (18) of
17 section 113(a).

18 **TITLE II—EMERGENCY PORT OF**
19 **ENTRY PERSONNEL AND IN-**
20 **FRASTRUCTURE FUNDING**

21 **SEC. 201. PORTS OF ENTRY INFRASTRUCTURE.**

22 (a) **ADDITIONAL PORTS OF ENTRY.—**

23 (1) **AUTHORITY.—**The Secretary may construct
24 new ports of entry along the northern border and

1 southern border and determine the location of any
2 such new ports of entry.

3 (2) CONSULTATION.—

4 (A) REQUIREMENT TO CONSULT.—The
5 Secretary shall consult with the Secretary of
6 State, the Secretary of the Interior, the Sec-
7 retary of Agriculture, the Secretary of Trans-
8 portation, the Administrator of General Serv-
9 ices, and appropriate representatives of State
10 and local governments, and Indian tribes, and
11 property owners in the United States prior to
12 selecting a location for any new port con-
13 structed pursuant to paragraph (1).

14 (B) CONSIDERATIONS.—The purpose of
15 the consultations required by subparagraph (A)
16 shall be to minimize any negative impacts of
17 such a new port on the environment, culture,
18 commerce, and quality of life of the commu-
19 nities and residents located near such new port.

20 (b) EXPANSION AND MODERNIZATION OF HIGH-VOL-
21 UME SOUTHERN BORDER PORTS OF ENTRY.—Not later
22 than September 30, 2021, the Secretary shall expand or
23 modernize the primary and secondary inspection lanes for
24 vehicle, cargo, and pedestrian inbound and outbound in-
25 spection lanes at ports of entry on the southern border,

1 as determined by the Secretary, for the purposes of reduc-
2 ing wait times and enhancing security, as determined by
3 the Secretary.

4 (c) PORT OF ENTRY PRIORITIZATION.—Prior to con-
5 structing any new ports of entry pursuant to subsection
6 (a), the Secretary shall complete the expansion and mod-
7 ernization of ports of entry pursuant to subsection (b) to
8 the extent practicable.

9 (d) NOTIFICATIONS.—

10 (1) RELATING TO NEW PORTS OF ENTRY.—Not
11 later than 15 days after determining the location of
12 any new port of entry for construction pursuant to
13 subsection (a), the Secretary shall notify the Mem-
14 bers of Congress who represent the State or congres-
15 sional district in which such new port of entry will
16 be located, as well as the Committee on Homeland
17 Security and Governmental Affairs, the Committee
18 on Finance, and the Committee on the Judiciary of
19 the Senate, and the Committee on Homeland Secu-
20 rity, the Committee on Ways and Means, and the
21 Committee on the Judiciary of the House of Rep-
22 resentatives. Such notification shall include informa-
23 tion relating to the location of such new port of
24 entry, a description of the need for such new port
25 of entry and associated anticipated benefits, a de-

1 scription of the consultations undertaken by the Sec-
2 retary pursuant to paragraph (2) of such subsection,
3 any actions that will be taken to minimize negative
4 impacts of such new port of entry, and the antici-
5 pated time-line for construction and completion of
6 such new port of entry.

7 (2) RELATING TO HIGH VOLUME.—Not later
8 than 180 days after enactment of this Act, the Sec-
9 retary shall notify the Committee on Homeland Se-
10 curity and Governmental Affairs, the Committee on
11 Finance, and the Committee on the Judiciary of the
12 Senate, and the Committee on Homeland Security,
13 the Committee on Ways and Means, and the Com-
14 mittee on the Judiciary of the House of Representa-
15 tives of the top ten high-volume ports of entry on
16 the southern border pursuant to subsection (b) and
17 the Secretary's plan for expanding or modernizing
18 the primary and secondary inspection lanes at each
19 such port of entry.

20 **SEC. 202. SECURE COMMUNICATIONS.**

21 (a) IN GENERAL.—The Secretary shall ensure that
22 each U.S. Customs and Border Protection and U.S. Immi-
23 gration and Customs Enforcement officer or agent, if ap-
24 propriate, is equipped with a secure two-way communica-

1 tion device, supported by system interoperability, that al-
2 lows each such officer to communicate—

3 (1) between ports of entry and inspection sta-
4 tions; and

5 (2) with other Federal, State, tribal, and local
6 law enforcement entities.

7 (b) LAND BORDER AGENTS AND OFFICERS.—The
8 Secretary shall ensure that each U.S. Customs and Border
9 Protection agent or officer assigned or required to patrol
10 on foot, by horseback, or with a canine unit, in remote
11 mission critical locations, and at border checkpoints, has
12 a multi- or dual-band encrypted portable radio.

13 **SEC. 203. BORDER SECURITY DEPLOYMENT PROGRAM.**

14 (a) EXPANSION.—Not later than September 30,
15 2021, the Secretary shall fully implement the Border Se-
16 curity Deployment Program of the U.S. Customs and Bor-
17 der Protection and expand the integrated surveillance and
18 intrusion detection system at land ports of entry along the
19 southern border and the northern border.

20 (b) AUTHORIZATION OF APPROPRIATIONS.—In addi-
21 tion to amounts otherwise authorized to be appropriated
22 for such purpose, there is authorized to be appropriated
23 \$33,000,000 for fiscal year 2018 to carry out subsection
24 (a).

1 **SEC. 204. PILOT AND UPGRADE OF LICENSE PLATE READ-**
2 **ERS AT PORTS OF ENTRY.**

3 (a) UPGRADE.—Not later than one year after the
4 date of the enactment of this Act, the Commissioner of
5 U.S. Customs and Border Protection shall upgrade all ex-
6 isting license plate readers on the northern and southern
7 borders on incoming and outgoing vehicle lanes.

8 (b) PILOT PROGRAM.—Not later than 90 days after
9 the date of the enactment of this Act, the Commissioner
10 of U.S. Customs and Border Protection shall conduct a
11 one-month pilot program on the southern border using li-
12 cense plate readers for one to two cargo lanes at the top
13 three high-volume land ports of entry or checkpoints to
14 determine their effectiveness in reducing cross-border wait
15 times for commercial traffic and tractor-trailers.

16 (c) REPORT.—Not later than 180 days after the date
17 of the enactment of this Act, the Secretary shall report
18 to the Committee on Homeland Security and Govern-
19 mental Affairs, the Committee on the Judiciary, and the
20 Committee on Finance of the Senate, and the Committee
21 on Homeland Security, and Committee on the Judiciary,
22 and the Committee on Ways and Means of the House of
23 Representatives the results of the pilot program under
24 subsection (b) and make recommendations for imple-
25 menting use of such technology on the southern border.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-
2 tion to amounts otherwise authorized to be appropriated
3 for such purpose, there is authorized to be appropriated
4 \$125,000,000 for fiscal year 2018 to carry out subsection
5 (a).

6 **SEC. 205. BIOMETRIC EXIT DATA SYSTEM.**

7 (a) IN GENERAL.—Subtitle B of title IV of the
8 Homeland Security Act of 2002 (6 U.S.C. 211 et seq.)
9 is amended by inserting after section 417 the following
10 new section:

11 **“SEC. 418. BIOMETRIC ENTRY-EXIT.**

12 “(a) ESTABLISHMENT.—The Secretary shall—

13 “(1) not later than 180 days after the date of
14 the enactment of this section, submit to the Com-
15 mittee on Homeland Security and Governmental Af-
16 fairs and the Committee on the Judiciary of the
17 Senate and the Committee on Homeland Security
18 and the Committee on the Judiciary of the House of
19 Representatives an implementation plan to establish
20 a biometric exit data system to complete the inte-
21 grated biometric entry and exit data system required
22 under section 7208 of the Intelligence Reform and
23 Terrorism Prevention Act of 2004 (8 U.S.C. 1365b),
24 including—

1 “(A) an integrated master schedule and
2 cost estimate, including requirements and de-
3 sign, development, operational, and mainte-
4 nance costs of such a system, that takes into
5 account prior reports on such matters issued by
6 the Government Accountability Office and the
7 Department;

8 “(B) cost-effective staffing and personnel
9 requirements of such a system that leverages
10 existing resources of the Department that takes
11 into account prior reports on such matters
12 issued by the Government Accountability Office
13 and the Department;

14 “(C) a consideration of training programs
15 necessary to establish such a system that takes
16 into account prior reports on such matters
17 issued by the Government Accountability Office
18 and the Department;

19 “(D) a consideration of how such a system
20 will affect arrival and departure wait times that
21 takes into account prior reports on such matter
22 issued by the Government Accountability Office
23 and the Department;

1 “(E) information received after consulta-
2 tion with private sector stakeholders, including
3 the—

4 “(i) trucking industry;

5 “(ii) airport industry;

6 “(iii) airline industry;

7 “(iv) seaport industry;

8 “(v) travel industry; and

9 “(vi) biometric technology industry;

10 “(F) a consideration of how trusted trav-
11 eler programs in existence as of the date of the
12 enactment of this Act may be impacted by, or
13 incorporated into, such a system;

14 “(G) defined metrics of success and mile-
15 stones;

16 “(H) identified risks and mitigation strate-
17 gies to address such risks; and

18 “(I) a consideration of how other countries
19 have implemented a biometric exit data system;
20 and

21 “(2) not later than two years after the date of
22 the enactment of this section, establish a biometric
23 exit data system at the—

24 “(A) 15 United States airports that sup-
25 port the highest volume of international air

1 travel, as determined by available Federal flight
2 data;

3 “(B) 10 United States seaports that sup-
4 port the highest volume of international sea
5 travel, as determined by available Federal travel
6 data; and

7 “(C) 15 United States land ports of entry
8 that support the highest volume of vehicle, pe-
9 destrian, and cargo crossings, as determined by
10 available Federal border crossing data.

11 “(b) IMPLEMENTATION.—

12 “(1) PILOT PROGRAM AT LAND PORTS OF
13 ENTRY FOR NON-PEDESTRIAN OUTBOUND TRAF-
14 FIC.—Not later than six months after the date of
15 the enactment of this section, the Secretary, in col-
16 laboration with industry stakeholders, shall establish
17 a six-month pilot program to test the biometric exit
18 data system referred to in subsection (a)(2) on non-
19 pedestrian outbound traffic at not fewer than three
20 land ports of entry with significant cross-border traf-
21 fic, including at not fewer than two land ports of
22 entry on the southern land border and at least one
23 land port of entry on the northern land border. Such
24 pilot program may include a consideration of more

1 than one biometric mode, and shall be implemented
2 to determine the following:

3 “(A) How a nationwide implementation of
4 such biometric exit data system at land ports of
5 entry shall be carried out.

6 “(B) The infrastructure required to carry
7 out subparagraph (A).

8 “(C) The effects of such pilot program on
9 legitimate travel and trade.

10 “(D) The effects of such pilot program on
11 wait times, including processing times, for such
12 non-pedestrian traffic.

13 “(E) The effects of such pilot program on
14 combating terrorism.

15 “(F) The effects of such pilot program on
16 identifying visa holders who violate the terms of
17 their visas.

18 “(2) AT LAND PORTS OF ENTRY FOR NON-PE-
19 DESTRIAN OUTBOUND TRAFFIC.—

20 “(A) IN GENERAL.—Not later than five
21 years after the date of the enactment of this
22 section, the Secretary shall expand the biomet-
23 ric exit data system referred to in subsection
24 (a)(2) to all land ports of entry, and such sys-

1 tem shall apply only in the case of non-pedes-
2 trian outbound traffic.

3 “(B) EXTENSION.—The Secretary may ex-
4 tend for a single two-year period the date speci-
5 fied in subparagraph (A) if the Secretary cer-
6 tifies to the Committee on Homeland Security
7 and Governmental Affairs and the Committee
8 on the Judiciary of the Senate and the Com-
9 mittee on Homeland Security and the Com-
10 mittee on the Judiciary of the House of Rep-
11 resentatives that the 15 land ports of entry that
12 support the highest volume of passenger vehi-
13 cles, as determined by available Federal data,
14 do not have the physical infrastructure or char-
15 acteristics to install the systems necessary to
16 implement a biometric exit data system.

17 “(3) AT AIR AND SEA PORTS OF ENTRY.—Not
18 later than five years after the date of the enactment
19 of this section, the Secretary shall expand the bio-
20 metric exit data system referred to in subsection
21 (a)(2) to all air and sea ports of entry.

22 “(4) AT LAND PORTS OF ENTRY FOR PEDES-
23 TRIANS.—Not later than five years after the date of
24 the enactment of this section, the Secretary shall ex-
25 pand the biometric exit data system referred to in

1 subsection (a)(2) to all land ports of entry, and such
2 system shall apply only in the case of pedestrians.

3 “(c) EFFECTS ON AIR, SEA, AND LAND TRANSPOR-
4 TATION.—The Secretary, in consultation with appropriate
5 private sector stakeholders, shall ensure that the collection
6 of biometric data under this section causes the least pos-
7 sible disruption to the movement of people or cargo in air,
8 sea, or land transportation, while fulfilling the goals of im-
9 proving counterterrorism efforts and identifying visa hold-
10 ers who violate the terms of their visas.

11 “(d) TERMINATION OF PROCEEDING.—Notwith-
12 standing any other provision of law, the Secretary shall,
13 on the date of the enactment of this section, terminate
14 the proceeding entitled ‘Collection of Alien Biometric Data
15 Upon Exit From the United States at Air and Sea Ports
16 of Departure; United States Visitor and Immigrant Status
17 Indicator Technology Program (“US-VISIT”)', issued on
18 April 24, 2008 (73 Fed. Reg. 22065).

19 “(e) DATA-MATCHING.—The biometric exit data sys-
20 tem established under this section shall—

21 “(1) match biometric information for an indi-
22 vidual who is departing the United States against bi-
23 ometric data previously provided to the United
24 States Government by such individual for the pur-
25 poses of international travel;

1 “(2) leverage the infrastructure and databases
2 of the current biometric entry and exit system estab-
3 lished pursuant to section 7208 of the Intelligence
4 Reform and Terrorism Prevention Act of 2004 (8
5 U.S.C. 1365b) for the purpose described in para-
6 graph (1); and

7 “(3) be interoperable with, and allow matching
8 against, other Federal databases that—

9 “(A) store biometrics of known or sus-
10 pected terrorists; and

11 “(B) identify visa holders who violate the
12 terms of their visas.

13 “(f) SCOPE.—

14 “(1) IN GENERAL.—The biometric exit data
15 system established under this section shall include a
16 requirement for the collection of biometric exit data
17 at the time of departure for all categories of individ-
18 uals who are required by the Secretary to provide bi-
19 ometric entry data.

20 “(2) EXCEPTION FOR CERTAIN OTHER INDIVID-
21 UALS.—This section shall not apply in the case of an
22 individual who exits and then enters the United
23 States on a passenger vessel (as such term is defined
24 in section 2101 of title 46, United States Code) the

1 itinerary of which originates and terminates in the
2 United States.

3 “(3) EXCEPTION FOR LAND PORTS OF
4 ENTRY.—This section shall not apply in the case of
5 a United States or Canadian citizen who exits the
6 United States through a land port of entry.

7 “(g) COLLECTION OF DATA.—The Secretary may not
8 require any non-Federal person to collect biometric data,
9 or contribute to the costs of collecting or administering
10 the biometric exit data system established under this sec-
11 tion, except through a mutual agreement.

12 “(h) MULTI-MODAL COLLECTION.—In carrying out
13 subsections (a)(1) and (b), the Secretary shall make every
14 effort to collect biometric data using multiple modes of
15 biometrics.

16 “(i) FACILITIES.—All facilities at which the biometric
17 exit data system established under this section is imple-
18 mented shall provide and maintain space for Federal use
19 that is adequate to support biometric data collection and
20 other inspection-related activity. For non-federally owned
21 facilities, such space shall be provided and maintained at
22 no cost to the Government.

23 “(j) NORTHERN LAND BORDER.—In the case of the
24 northern land border, the requirements under subsections
25 (a)(2)(C), (b)(2)(A), and (b)(4) may be achieved through

1 the sharing of biometric data provided to U.S. Customs
2 and Border Protection by the Canadian Border Services
3 Agency pursuant to the 2011 Beyond the Border agree-
4 ment.

5 “(k) FAIR AND OPEN COMPETITION.—The Secretary
6 shall procure goods and services to implement this section
7 via fair and open competition in accordance with the Fed-
8 eral Acquisition Regulations.

9 “(l) OTHER BIOMETRIC INITIATIVES.—The Sec-
10 retary may pursue biometric initiatives at air, land, and
11 sea ports of entry for the purposes of border security and
12 trade facilitation distinct from the biometric exit data sys-
13 tem described in this section.

14 “(m) CONGRESSIONAL REVIEW.—Not later than 90
15 days after the date of the enactment of this section, the
16 Secretary shall submit to the Committee on Homeland Se-
17 curity and Governmental Affairs of the Senate, the Com-
18 mittee on the Judiciary of the Senate, the Committee on
19 Homeland Security of the House of Representatives, and
20 Committee on the Judiciary of the House of Representa-
21 tives reports and recommendations regarding the Science
22 and Technology Directorate’s Air Entry and Exit Re-En-
23 gineering Program of the Department and the U.S. Cus-
24 toms and Border Protection entry and exit mobility pro-
25 gram demonstrations.

1 “(n) SAVINGS CLAUSE.—Nothing in this section shall
2 prohibit the collection of user fees permitted by section
3 13031 of the Consolidated Omnibus Budget Reconciliation
4 Act of 1985 (19 U.S.C. 58c).”.

5 **SEC. 206. SENSE OF CONGRESS ON COOPERATION BE-**
6 **TWEEN AGENCIES.**

7 (a) FINDING.—Congress finds that personnel con-
8 straints exist at land ports of entry with regard to sanitary
9 and phytosanitary inspections for exported goods.

10 (b) SENSE OF CONGRESS.—It is the sense of Con-
11 gress that, in the best interest of cross-border trade and
12 the agricultural community—

13 (1) any lack of certified personnel for inspection
14 purposes at ports of entry should be addressed by
15 seeking cooperation between agencies and depart-
16 ments of the United States, whether in the form of
17 a memorandum of understanding or through a cer-
18 tification process, whereby additional existing agents
19 are authorized for additional hours to facilitate the
20 crossing and trade of perishable goods in a manner
21 consistent with rules of the Department of Agri-
22 culture; and

23 (2) cross designation should be available for
24 personnel who will assist more than one agency or

1 department at land ports of entry to facilitate in-
2 creased trade and commerce.

3 **SEC. 207. AUTHORIZATION OF APPROPRIATIONS.**

4 In addition to any amounts otherwise authorized to
5 be appropriated for such purpose, there is authorized to
6 be appropriated \$1,250,000,000 for each of fiscal years
7 2018 through 2021 to carry out this title, of which—

8 (1) \$2,000,000 shall be used by the Secretary
9 for hiring additional Uniform Management Center
10 support personnel, purchasing uniforms for CBP of-
11 ficers and agents, acquiring additional motor vehi-
12 cles to support vehicle mounted surveillance systems,
13 hiring additional motor vehicle program support per-
14 sonnel, and for contract support for customer serv-
15 ice, vendor management, and operations manage-
16 ment; and

17 (2) \$250,000,000 per year shall be used to im-
18 plement the biometric exit data system described in
19 section 418 of the Homeland Security Act of 2002,
20 as added by section 205 of this Act.

21 **SEC. 208. DEFINITION.**

22 In this title, the term “Secretary” means the Sec-
23 retary of Homeland Security.

